

**Montpelier Development Review Board**  
**April 19, 2004**  
**City Council Chambers, City Hall**

*Subject to Review and Approval*

**Present:** Philip Zalinger, Chair; Sharon Allen, Vice Chair; Roger Cranse; Dave Keller; Guy Teschmacher  
Staff: Valerie Capels, Planning and Community Development Director

**Call to Order**

The meeting was called to order by Mr. Zalinger.

**Approval of Minutes**

The April 7 minutes were not available.

**Consent Agenda - Sign Permits**

- A.** Applicant: John Miller for Pomerleau Realty  
Property Owner: Pomerleau Realty  
Property Address: 7 Main Street  
Zone: CB-I/DCD  
Purpose: Sign Permit Application
- Wall signs on two sides of the building
  - DRC recommends approval with adjustments

Mr. Zalinger noted that the Development Review Committee (DRC) has recommended approval of the application. Ms. Allen asked whether the applicant agrees with the comments of the DRC. Mr. Miller said that the applicant accepts the DRC comments. Mr. Keller asked whether there are other downtown buildings with signs on the second floor exterior. Ms. Capels said that there are other such signs. Ms. Allen made a motion to approve the sign application with the DRC recommendations. Mr. Cranse seconded the motion. The motion was approved unanimously.

- B.** Applicant: Joyce Sweetser, Salon Performance, Inc.  
Property Owner: Frederick Bashara  
Property Address: 100 State Street  
Zone: CB-I/DCD  
Purpose: Sign Permit
- Two wall signs
  - DRC recommends approval with adjustments

Mr. Zalinger noted that the DRC has approved the application with comments. Mr. Cranse made a motion to approve the Sign Permit with the DRC recommendations. Mr. Teschmacher seconded the motion. Mr. Zalinger asked whether the applicant accepts the DRC comments. Mr. Miller said that the applicant accepts the DRC comments. The motion was approved unanimously.

**Public Hearing- Variance Request**

Applicant: Gerald Rokes  
Property Owner: Gerald Rokes  
Property Address: 101 Berlin Street  
Zone: MDR

Interested party: Gerald Rokes

Mr. Zalinger swore in Mr. Rokes. Mr. Rokes described his proposal to replace the roof of a single family residence that was constructed before 1900. He said that the existing two to three-foot spacing of the roof beams is inadequate to prevent sagging under snow loads. This has resulted in leaking and damage to the structure. Mr. Rokes said that the replacement roof will have a steeper pitch, will be structurally sound and will also provide for a better living space. Ms. Capels explained that the project requires a variance because the height will be increased, resulting in an increase in the setback requirements.

Mr. Teschmacher asked whether the dormers would remain. Mr. Rokes said that the project would eliminate the dormers because of the potential for leakage. Architectural shingles would be used on the new roof and the existing chimney would be replaced with a masonry chimney with a ceramic insert.

Mr. Keller asked whether the applicant has discussed the project with his neighbors. Mr. Rokes said that he did not talk to the neighbors, but expected that they could come to the hearing if they wished. Ms. Capels confirmed that the neighbors were notified of the hearing. Mr. Zalinger asked whether any members of the public wanted to speak regarding the application. There was no response from those present.

Variance Criteria:

1. That there are unique physical circumstances or conditions, including irregularity, narrowness, or shallowness of lots size or shape, or exceptional topographical or other physical conditions peculiar to the particular property, and that unnecessary hardship is due to such conditions, and not the circumstances or conditions generally created by the provisions of the zoning regulation in the neighborhood or district in which the property is located. **The existing structure was built before 1900 and is currently located within two of the setbacks. The lot is small, about 160' x 180'.**
2. That because of such physical circumstances or conditions, there is no possibility that the property can be developed in strict conformity with the provisions of the zoning regulation and that the authorization of a variance is, therefore, necessary to enable the reasonable use of the property. **The existing building is already within the setbacks. There is no way to reconstruct the roof without requiring a variance. The reconstruction of a substandard roof is a reasonable use of the property.**
3. That the unnecessary hardship has not been created by the appellant, and the hardship relates to the applicant's land, rather than personal circumstances. **The presence of the existing building within the setbacks has created the hardship.**
4. That the variance, if authorized, will not alter the essential character of the neighborhood or district in which the property is located, substantially or permanently impair the appropriate use of development of adjacent property, reduce access to renewable energy resources, nor be detrimental to the public welfare. **The use will remain residential. There are no known adverse impacts to neighboring properties.**
5. That the variance, if authorized, will represent the minimum variance that will afford relief and will represent the least deviation possible from the zoning regulation and from the Montpelier Municipal Plan. **The variance will represent the minimum relief necessary.**
6. The variance will not result in the initiation of a nonconforming use of land. **The use of the land will remain residential.**

Mr. Rokes explained that the contractor has to take the roof off to determine what adjustments will be needed to square the building. This may result in minor changes to the height of the proposed roof, but the maximum height of 25' 6" will not be exceeded. Ms. Capels asked the Board members whether they were comfortable with the roof adjustments provided that the new height is less than or equal to 25' 6". Several board members indicated that this was acceptable.

Mr. Keller made a motion to approve the Variance for the removal and replacement of the roof up to but not exceeding a height of 25' 6". Ms. Allen seconded the motion. The motion was unanimously approved.

### **Public Hearing- Variance Request**

Applicant: Daemmon Hughes and Alison Signorino  
Property Owner: Daemmon Hughes and Alison Signorino  
Property Address: 27 Kent Street  
Zone: HDR

- Construction of addition - enlargement of an existing non-conforming structure

Interested party: Daemmon Hughes

Mr. Hughes was sworn in by Mr. Zalinger. Mr. Hughes explained that the proposed enlargement of the existing house will be constructed in the area where there is presently a side porch and will extend along the rear of the house. There will be no increase in the number of bedrooms. Mr. Hughes circulated color copies of the plans to the Board.

Mr. Keller asked about the two doors shown on the photo-simulation. Mr. Hughes said that they would enclose an unheated storage space.

Mr. Zalinger asked what the existing side yard setback was. Mr. Hughes indicated that the porch is about two to three feet from the property line. He said that the addition will increase the encroachment by one foot. Mr. Keller asked how the setback was measured from a rounded portion of the property line. Ms. Capels explained that the ownership was unclear in that portion of the lot.

Ms. Allen asked whether the applicant has spoken to his neighbors about the addition. Mr. Hughes answered that he has spoken to the neighbors. There was no response from the audience when Mr. Zalinger asked whether anyone wished to speak on this matter.

1. That there are unique physical circumstances or conditions, including irregularity, narrowness, or shallowness of lots size or shape, or exceptional topographical or other physical conditions peculiar to the particular property, and that unnecessary hardship is due to such conditions, and not the circumstances or conditions generally created by the provisions of the zoning regulation in the neighborhood or district in which the property is located. **The existing structure is well within the setbacks. The location of the house on an irregular lot creates the circumstances resulting in the noncompliance.**
2. That because of such physical circumstances or conditions, there is no possibility that the property can be developed in strict conformity with the provisions of the zoning regulation and that the authorization of a variance is, therefore, necessary to enable the reasonable use

of the property. **The lot and the residential construction were created prior to the adoption of the zoning ordinances.**

3. That the unnecessary hardship has not been created by the appellant, and the hardship relates to the applicant's land, rather than personal circumstances. **The hardship created by the location of the building is related to the land.**
4. That the variance, if authorized, will not alter the essential character of the neighborhood or district in which the property is located, substantially or permanently impair the appropriate use of development of adjacent property, reduce access to renewable energy resources, nor be detrimental to the public welfare. **The use will remain residential. There are no known objections from the owners of neighboring properties. The proposed increase in the building size is de minimus.**
5. That the variance, if authorized, will represent the minimum variance that will afford relief and will represent the least deviation possible from the zoning regulation and from the Montpelier Municipal Plan. **There will be a minor increase in the side yard encroachment. There will be a more substantial increase in the rear yard encroachment, but based upon the lot size, the requested variance will represent the minimum relief necessary.**
6. The variance will not result in the initiation of a nonconforming use of land. **The use of the land will remain residential.**

Mr. Keller made a motion to approve the application for a Variance. Ms. Allen seconded the motion. The motion was approved unanimously.

**Public Hearing - Conditional Use and Site Plan Review**

- Applicant: Sam Daniels Co., Inc.  
Owner: James and Donna Daniels  
Property Address: 456 East Montpelier Road  
Zone: IND
- Construction of a 30' x90' self storage facility

Interested parties: Jim Daniels, Richard DeWolfe, Lynnette Whitney

The applicant and their representatives were sworn in. Mr. DeWolfe described the proposal to construct a third self storage building on the parcel. He said that the two existing self storage buildings located on the lot were approved in 1982. He also said that there is an existing manufacturing building on the parcel. Mr. DeWolfe stated that the project will require Conditional Use approval because there will be more than 10,000 square feet of nonresidential building space on the parcel. The project also requires Site Plan approval.

Ms. Allen asked whether the applicant has read the staff recommendations and whether there are any issues with them. Ms. Whitney asked that the item 6(a)vi under the Conditional Use Criteria on page 2 of the recommendations be clarified to indicated that the applicant is proposing 5 additional wall lights. They will be the same type of lights that are on the existing buildings.

In response to Mr. Keller's request, Ms. Whitney displayed and described the landscaping plan.

Mr. Keller asked whether there will be a conflict between the proposed parking spaces and vehicles accessing existing storage building #1. Mr. DeWolfe said that the parking at storage unit #1 is parallel to the building, so those vehicles will not be backing up. He explained that there are 40' between the

existing and proposed buildings. This will provide 18' deep proposed parking spaces and a 22' drive aisle. Mr. Zalinger asked whether the building design would be similar to the existing buildings. Mr. DeWolfe confirmed that it will be identical to the existing buildings. Mr. Zalinger asked whether anyone wanted to speak on this matter. No one responded.

Mr. DeWolfe offered information as the Board addressed the Conditional Use Criteria.

1. Capacity of existing or planned community facilities. **The project will add possibly one vehicle trip per day. There will be no water or sewer use and no demand on recreational or school facilities. There will be only a slight increase in power use.**
2. Character of the area affected.
  - a. Performance standards in 814
  - b. Site plan review standards in 506.C.
  - c. Hours of operation
  - d. Cumulative impact of the proposed conditional use taken together with other conditional uses in the neighborhood.
  - e. Compatibility with existing and proposed development for the area.
  - f. Traffic generated per unit.
  - g. The cumulative impact of the proposal's failure, if applicable to fully satisfy each of the conditional use standards in 504.D and 812.
  - h. Noise generated per unit.
  - I. Any other factors judged to have an adverse impact on the area.  
**The area is industrially zoned and the proposed use is consistent with adjoining uses. The building will not house people or noise-producing machinery. The storage of odor producing items will not be permitted. The proposed building will be identical to the existing buildings, including the installation of five wall pack lights.**
3. Traffic on roads and highways in the vicinity. **There will be no measurable increase in traffic over the prior use.**
4. Zoning and subdivision regulation in effect. **The project is in compliance with all dimensional requirements of the Zoning Ordinance.**
5. Utilization of renewable energy resources. **Not applicable.**

The Board then considered Site Plan Review. Mr. DeWolfe explained that the applicant will be continuing the landscape treatment used in the prior phase. He said that this consisted of low shrubs and fencing. Mr. Zalinger asked whether the applicant has any issue with submitting a revised plan showing the relocation on utilities. Mr. DeWolfe said that the utilities are not proposed to be relocated. A pole will be set next to an existing building to raise the utility lines.

Ms. Allen made a motion to approve the application as presented and per the staff recommendations. Mr. Cranse seconded the motion. The motion was approved unanimously.

**Public Hearing - Conditional Use, Design Review and Final Review for a Planned Residential Development**

Applicant: River Station Properties, III, LLC  
Owner: Dernavich Associates, Inc./River Station Properties, III, LLC  
Property Address: 221 Barre Street  
Zone: CB-II/DCD

Interested Parties: Richard DeWolfe, Lynnette Whitney, Dr. Ken Pierson, Ken Lyons, Vicki Lane, Robert Rochefort

Mr. Zalinger reminded Mr. DeWolfe and Ms. Whitney that each of them was still under oath. Other persons wishing to speak on this matter were sworn in by Mr. Zalinger. Ms. Capels noted that the reduced lighting and landscaping plans were not available in the Board members' packets and the full-sized plans are available for the Board. Mr. DeWolfe described the proposal for the construction of 36 affordable housing apartment units and 14 condominium units. He said that the DRC has reviewed the project and indicated that the DRC's comments were acceptable to the applicant.

Mr. DeWolfe then discussed his letter of February 16, 2004 that was submitted in response to prior meetings and Tom McArdle's and Stephanie Smith's memos. His discussion is summarized below:

**Water supply:** The municipal system is adequate to serve the project. The exact details of the connection to the system will depend on the results of site work to establish the actual condition of the water system near the project site. The applicant will comply with DPW requirements.

**Wastewater:** The connections to the City sewer mains will be in accordance with DPW requirements. The applicant will obtain a permit from the DPW to authorize construction. A licensed engineer will certify construction has been completed in accordance with the approved plans.

**Stormwater:** The stormwater pond will be designed in accordance with State stormwater rules. An application for a State stormwater discharge permit is pending. It is likely that there will be no increase in runoff over the existing conditions.

**Erosion Control:** The applicant agrees to Mr. McArdle's conditions.

**Traffic:** The plan provides adequate circulation and the City has accepted the plan.

**Parking:** The applicant and the owners of the Susan's Kitchen property have agreed to shared use of a dumpster. The dumpster will be located at the south east corner of the apartment building.

Mr. Lyons asked how many off-street parking spaces would be provided for Susan's Kitchen. Mr. DeWolfe said that the applicant will not be building spaces for Susan's Kitchen, but will provide access to two parking spaces. Mr. DeWolfe said that the extension of Charles Street is not a public road, but is used for access by the adjacent granite shed and apartment. He said that the improvements to this driveway have been designed in accordance with Mr. McArdle's comments. The drive will include parallel parking spaced for use by the apartment building to the west. He said that the applicant is the owner of the property, but will allow use of the drive and parking spaces through a verbal license. Dr. Pearson stated that as owner of the adjacent building, he will expect a written agreement. Mr. Zalinger advised him that the issue is outside of the Board's jurisdiction. Mr. DeWolfe said that the design of the drive provides a 28-foot overall width. This allows for two 10' drive lanes and 8' for parking.

Mr. DeWolfe continued his summary of his response letter -

**Pedestrian Circulation:** The project will include sidewalks along the perimeter of the site.

Other: The applicant will provide the City with a quit claim deed to the land that is needed for right of way along Granite Street.

Landscaping: The trees have been relocated and the ginkgo trees have been replaced with red maple.

Mr. Keller asked how the tree planting will affect the proposal to save existing trees of 3" caliper or more where possible. Mr. DeWolfe said that the applicant is committed to keeping those trees where they can survive the earthwork, but it does not look like there will be many.

Ms. Capels asked whether the Board wanted to follow up on prior discussions about making the front yard more accessible for use by tenants. Mr. Zalinger said that this was really not an issue for the Board. Mr. DeWolfe said that there is a 12' grass strip between the sidewalk and the buildings that could be used. Mr. Lyons said that the grassed area near the dumpster and river was not suitable for a park. Ms. Allen explained that the discussion was regarding the front of the buildings.

Mr. DeWolfe returned to his discussion of his response letter-

Flood Plain: The project is not in the floodway, but is in the floodplain. The buildings will be located above the 100-year floodplain. Special tie-down strapping will be installed with the propane tank.

Staff Comments: The location of power, telephone and cable TV lines have been added to the plans. Spot grades have been added. The applicant states that the light at the property line will not exceed 0.4 foot candles. The applicant will be receiving funding for the affordable housing units and will be required by the funding agency to deed restrict the units for affordable housing in perpetuity.

Ms. Allen asked what would happen if the funding was not approved. Mr. DeWolfe said that a revised application would have to be submitted to the Board because the density of the current application is based upon the affordable housing units.

Mr. DeWolfe returned to the response letter, saying that the applicant has received design review approval and that the applicant agrees to having the soil erosion facilities monitored during construction. Mr. Keller asked whether that includes contaminated soil removal. Mr. DeWolfe said that a Phase I hazardous materials assessment has been completed and cleanup of oil contaminated soil near the oil tank is underway. He said that the fenced area on the site was the old settling basin for granite dust and that he understands that material is not hazardous. He said that Griffin International did the testing.

Mr. Lyons said that he talked to Derwood Lamb, of the City Water Department and understood that the settling basin was a problem in the past because it was getting into the water. Mr. Lyons said he did not believe that the testing performed by Griffin was adequate and that the City should do some tests. He said that Mr. Lamb would look into whether the City could do any testing. Mr. DeWolfe said that Phase II, which is underway, will include cleanup and further analysis. Mr. DeWolfe noted that the issue will also be reviewed under the Act 250 permit application.

Mr. Keller asked whether the Development Review Board's regulations include performance standards related to hazardous materials testing or cleanups. Mr. Zalinger said that there are no such standards in the Board's regulations. He said that such standards are in State regulations and that is also in the buyers' and investors' best interests to address these issues before taking ownership of a site.

Mr. DeWolfe returned to summarizing his letter-

Waivers: This project is a PRD and the applicant is therefore, requesting waivers of setback requirements. There will be an 8' setback from the R.O.W. of Barre Street to the part of the building closest to the road. The townhouse units finished floors will be raised above Barre Street. Raised planters were proposed in order to shield the foundations. The side setbacks comply on the west side. The east side is considered a front yard due to the Granite Street right of way. The project does not comply with the front yard setback requirements.

Density Bonus: The allowable density is 48 units without a bonus. The applicant is proposing a density bonus to allow 50 units. The bonus request is based upon the apartment building containing affordable housing units in perpetuity.

Mr. Zalinger clarified and Mr. DeWolfe confirmed that the applicant is requesting waivers of setbacks on the east and north property boundaries and a waiver of the additional setback due to building height to allow the buildings to have setbacks similar to adjoining buildings. He added that staff has recommended that this waiver be approved.

Mr. Keller asked why the DRC recommended the change in the siding type. It appears that the clapboard type siding had been replaced with a stucco-like surface. He also questioned why the shape of the proposed shingles had been changed. Mr. DeWolfe indicated that he was not present at that meeting and did not know the reasons. Mr. Keller said that he would like to know the reason as the changes are significant. He added that he would like to know the exterior color scheme. Mr. DeWolfe said that the light surfaces in the simulated photo would be "Navaho White" and that the vertical siding would be "Monterey Gray." Ms. Allen noted that the elevations seem to show a clapboard type of siding. Mr. Teschmacher said that it appears that the "Hardiplank" composite clapboards will still be used, but they will have a smooth surface. Mr. DeWolfe confirmed that he believed that the change had been from rough-textured Hardiplank to a smooth surface Hardiplank. Mr. Keller said that he wants to be sure that the clapboard look is used. Ms. Allen suggested that this could be a condition of approval. Mr. DeWolfe said that the applicant would not object to such a condition. Mr. Zalinger said that he would like to have specific information on the exact materials to be used. Mr. DeWolfe said that he could provide a new submission showing the clapboard material to be used and a key specifying where the material will be used. Mr. Zalinger added that the specific product should be identified. Ms. Capels asked whether the Board wished to have that information prior to final action on the application. Mr. Zalinger affirmed that the Board needs to review the evidence before acting. Mr. Keller added that he wants to see what the bonnet-type shingles look like.

Mr. Lyons said that he lives directly across from the proposed buildings. He said that the buildings will block the view from his windows and will block sunlight from reaching his yard and windows. He said that this will eliminate his ability to use the sunlight to warm his building.

Mr. Cranse said that the documents did not appear to be specific about open space or a park area. Mr. DeWolfe said that the grassed lawn area is about one tenth of an acre in size and will be mowed. No improvements are proposed. Mr. Cranse noted that children are likely to live in the proposed residences. He asked whether there are any provisions for a play area. Mr. DeWolfe said that there is that small

grassed area, but that he would not speak to its appropriateness for a play area. Mr. Zalinger noted that the applicant will be required to pay a park impact fee of \$10,000.

Mr. Keller asked whether it was in the Board's purview to require play equipment in the grass area. Mr. Zalinger responded that there is no testimony indicating that the play equipment, if required, would be used by the children or maintained. He said that he would want to hear evidence that it will fit the purpose for which it was installed. Ms. Allen said that it does not appear that the ordinances give the Board the ability to impose such a condition. Ms. Capels said that the applicant is requesting Conditional Use approval, so there is some ability to make such a condition, but it should be tied to an identified issue or testimony. Dr. Pierson said that the children in the neighborhood currently play in the area of the Charles Street extension and suggested that they will probably continue to play in the driveway.

Vicki Lane said that she is a member of the Design Review Committee. She said that the committee proposed the change of the building exteriors from textured clapboard to smooth clapboard. She said that the bonnet shingles were proposed for aesthetic reasons.

Bob Rochefort said that he owns the warehouses that use the Charles Street extension for access. He said that he needs to bring tractor trailers in the proposed driveway. Mr. DeWolfe said that the drive will be extended from Barre Street. Dr. Pierson said that he still wants to know where the drive will be widened. Mr. Zalinger said that these matters were outside of the Board's jurisdiction and should be discussed between the various property owners.

Mr. Zalinger asked Mr. DeWolfe whether he has reviewed the staff advisory comments. Mr. DeWolfe said that he had. Ms. Capels noted that the reference to the bond requirements at 4(f) refers to a period of three years, but should be a one year period. Mr. DeWolfe added that the fencing is shown on plan sheet 1.02, the split rail detail is on 5.01 and the dumpster fence is also on sheet 5.01. Mr. DeWolfe said that no changes to the street utility poles are proposed. He said that the applicant will provide all of the other information listed in the staff comments.

Ms. Allen said that the Board needs to have more information before acting. Mr. DeWolfe said that he will provide the information from the staff comments and will also provide a revised Site Plan and detailed elevations with a key showing the materials to be used on the exteriors. Ms. Allen said that the site investigation is still ongoing and asked that any information available from the investigation also be provided. Mr. DeWolfe said that Griffin will be producing a final report and that a copy will be provided when it is available. Mr. Zalinger suggested that the matter be tabled until the May 3, 2004 meeting and that the matter be placed as the first substantive item on the agenda for that meeting.

Ms. Allen made a motion to table the matter until the May 3, 2004 meeting. Mr. Keller seconded. The motion was approved unanimously. It is to be scheduled as the first item of substantive business after the Consent Agenda.

### **Other Business**

Ms. Allen said that she wanted to let the Board members know that she will be leaving for Rhode Island on June 1<sup>st</sup>. Her appointment is up on July 1<sup>st</sup> and she will be back on October 15. She said that she will let the City Council know that she would like to continue when she returns, but understand that they may not choose to reappoint her.

**Adjournment**

Mr. Keller made a motion to adjourn the meeting. Ms. Allen seconded the motion. It was unanimously approved. The meeting was adjourned at 9:30 p.m.

Respectfully submitted,

Valerie Capels, Director of Planning & Community Development

Transcribed by Kathleen Swigon

*These minutes are subject to approval by the Development Review Board. Changes, if any, will be recorded in the minutes of the meeting at which they are acted upon.*