

Montpelier Development Review Board
July 6, 2004
City Council Chambers, City Hall

Subject to Review and Approval

Present: Philip Zalinger, Chair; Alan Blakeman; Guy Teschmacher; Jack Lindley; Dave Keller; Ken Matzner; Kevin O'Connell
Staff: Stephanie Smith, Planner

Call to Order

The meeting was called to order by Mr. Zalinger.

Minutes

Mr. Lindley made a motion to approve the minutes of the June 21, 2004 Development Review Board meeting. Mr. Blakeman seconded the motion. Ms. Smith said that the reference to the minutes to be approved at the June 21 meeting on the first page should be corrected to read "June 7, 2004". Mr. Blakeman noted that the spelling of Mr. Lorinovich's name in item #IV should also be corrected. The motion was approved 5-0 with Mr. O'Connell and Mr. Matzner abstaining.

Comments from the Chair

Mr. Zalinger announced that Guy Teschmacher had been reappointed as a regular member of the Development Review Board and that Ken Matzner had been reappointed as an alternate member.

I. Consent Agenda

A. Design Review- Sign Permit Application and Site Plan Amendment

Applicant: Green Mountain Power Corporation
Property Owner: Green Mountain Power Corporation
Property Address: 7 Green Mountain Drive
Zone: GB/DCD
Purpose: Site Plan Amendment, Design Review and Sign Permit

- Construction of 8' x 8' canopy
- 32" x 9'7" wall sign
- DRC recommended approval as submitted.

Mr. Zalinger noted that the DRC has recommended approval of the application as submitted. Mr. O'Connell made a motion to approve the application as submitted. Mr. Matzner seconded the motion. Mr. Teschmacher asked for clarification on what business the sign was for, and where it would be located on the building. Ms. Smith said that the sign is for Vermont Mutual, who rents office space located on the property of Green Mountain Power. The motion to grant approval of the site plan amendment, design review and sign permit was approved unanimously.

B. Design Review

Applicant: Jennifer Boyer, Artisans Hand Craft Gallery
Property Owner: Green Mountain Power Corporation
Property Address: 89 Main Street
Zone: CB-I/DCD
Purpose: Design Review

- 2' x 6' wall sign
- DRC recommends approval as submitted

Mr. Zalinger noted that the DRC recommended approval of the application as submitted. Mr. O'Connell made a motion to grant design review approval to the sign application as submitted. Mr. Blakeman seconded the motion. The motion was approved unanimously.

II. Public Hearing - Variance Request

Applicant: Roger and Chandra Cranse

Property Owner: Roger and Chandra Cranse

Property Address: One Summer Street

Zone: HDR

Purpose: Variance

- Construction of a 9' x 11' breezeway and kitchen expansion over existing open rear deck
- Required rear yard setback: 30'; Variance requested: 17.5'

Interested Parties: Roger Cranse

Mr. Zalinger said that the applicant, Mr. Cranse, is a member of the DRB. Mr. Zalinger explained that all of the Board members, if they were to conduct a hearing on this application, could not recuse themselves. He said that he felt that he could be objective and expects that the other Board members could also be objective. He said that any board members believing that this was not the case should recuse themselves.

Mr. Cranse was sworn in by Mr. Zalinger. Ms. Smith described the proposal to construct a 9' x 11' breezeway addition on an existing non-compliant structure. Mr. Cranse explained that his back steps are very slippery in the winter and there is a small open back porch which was not very useful. He said that his plan is to expand the kitchen out over the porch and to connect it to a proposed breezeway between the kitchen and garage. Mr. Cranse said that he had an architect design the addition so that it would fit in with the character of the house which was constructed in 1924. He said that the existing house and garage are located within the rear yard setback. The existing garage is two feet from the rear property line. Mr. Cranse said that he is requesting a 17.5' variance for the construction of the breezeway. Mr. Zalinger asked what the distance was from the rear of the house to the rear property line. Mr. Cranse estimated that the distance between the existing house and property line was 15.5', and that the existing garage was about three feet from the property line.

Mr. Matzner noted that the garage is actually located 2' from the rear property line and said that the proposed breezeway would not increase the rear yard encroachment. Mr. O'Connell said that the situation is typical of most properties that were built prior to the adoption of the zoning regulations in Montpelier. He said that many structures in Montpelier will always be non-complying.

The Board decided to review the 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 house was built in 1924 prior to the adoption of zoning regulations. A substantial portion of the house and almost the entire garage were constructed within the rear yard setback.**
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 structures are already constructed within the setback, and that there is no possibility of modifying the rear of the house or garage without a variance.**
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 applicant has clearly not created any conditions on the site that give rise to the need for a variance.**
 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 buildings are strictly residential and will remain so after construction of the proposed modifications. Notice has been provided to the owners of adjoining property. No negative responses have been received from the adjoining.. Construction of the breezeway will not be detrimental to the public welfare.**
 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 proposal represents an increase of the existing encroachment of the house by three feet, and represents the minimum variance that will afford relief.**
 6. The variance will not result in the initiation of a nonconforming use of land. **The house will continue to be use as a residence**

Mr. Blakelman made a motion to approve the variance as requested. Mr. Teschmacher seconded the motion. The motion was approved unanimously.

III. Public Hearing - Variance

- Applicant: Richard Sheir
Property Owner: Richard Sheir and Cindra Conison
Property Address: 39 Loomis Street
Zone: MDR
Purpose: Variance
- Construction of dormers with an increase in roof height
 - Required front yard setback: 41'; Variance Requested 35'

Interested Parties: Richard Sheir, Charles Phillips, Betsy Strobel

Richard Sheir was sworn in by Mr. Zalinger. Ms. Smith said that the applicant is requesting a 35' variance from a required 41' setback. She said that the existing house is located within 6' of the public right-of-way and the applicant is constructing a dormer within the existing building footprint. She explained that the ordinance requires an additional foot of setback for every foot of building height over 20'. The proposed height of the roof ridge is 31 feet, so an addition 11' of setback are required. This increases the 30' setback requirement to 41'. Ms. Smith said that the applicant is also proposing a mudroom on the back of the house, but that addition does not need DRB review as it conforms to the dimensional requirements.

Mr. Zalinger asked the applicant, Mr. Sheir whether the location of the eaves would change. Mr. Sheir said that they would not change.

Mr. Sheir said that the house was built in 1850. He said that he is proposing to extend the garage to square out a jog in the garage wall. He explained that the proposed dormer extension will not change the look of the house. He said that the house will look the same from the street, and that he intends to continue to use the house as a residence.

Mr. Blakeman said that he would recuse himself from this hearing because he had inadvertently heard about the application from Mr. Phillips, a friend who is also a neighbor of Mr. Sheir. Mr. Blakeman stepped down.

Mr. Phillips, of 4 Harrison Avenue, said that his house and Mr. Sheir's house are close together with a separation of 9' 10" at their closest point. Mr. Phillips said that he and Betsy Strobel, who also lives at 4 Harrison, are concerned about the height of the proposed addition. He shared two photographs with the DRB. Mr. Phillips said that the photos show the closeness of the buildings and the shadow cast by the Sheirs' house today. Mr. Phillips said that he does not know if the proposal would affect the sunlight reaching his windows, but is concerned about the potential impact on passive solar gain through his windows.

Mr. Sheir said that he feels that he has been sensitive to that issue. He said that the two houses are closest on their respective east and west sides. He said that the height of the garage and mudroom will not change and the proposed dormer extension is located 29 feet away from the Mr. Phillips' house. Mr. Sheir said that there are no solar panels on the Phillips' house. He added that there is a bush in front of one of the two windows in question so sunlight really only reaches one window. Ms. Strobel said that the bush blocks only the bottom portion of the window for privacy, and is kept trimmed to allow sunlight in.

Mr. Lindley asked what the proposed dormer height will be. Mr. Sheir said that the overall height will be 31', which is the same or less than the height of the Phillips' house and consistent with the heights of other structures in the neighborhood. He said that there is a four-story apartment building to the north and a three-story two family house across the street. Mr. Teschmacher said that the picture showing the shadow appears to indicate that the shadow is cast by the existing garage. Mr. Sheir said that the garage will not be changed. Mr. O'Connell asked whether this was the first time that the Mr. Phillips has seen the current plans. Mr. Phillips said that he had not seen the most recent plans.

Mr. O'Connell said that it appears that discussions with the neighbors have not taken place. Mr. Sheir said that he believed that he had done that type of groundwork. He said that he previously spoke to Mr. Phillips and Ms. Strobel, and had changed an earlier design based upon their concerns.

Mr. Zalinger asked Mr. Phillips whether he presently has any solar energy sources. Mr. Phillips said that he heats with wood, but the passive solar energy is important to him. Mr. O'Connell said that he was having trouble assessing the impact of the project because the plans are not detailed enough to allow for an informed determination of what the impacts will be. Mr. Sheir said that if the Board would explain how the plans could be made more clear, he might be open to doing so. Mr. O'Connell said that there are standard methods used by architects and engineers. Mr. Sheir asked whether Mr. O'Connell was saying that an engineer or architect must be retained for any building project in Montpelier. Mr. Zalinger said that was not what Mr. O'Connell had said. Mr. Zalinger said that it is somewhat incumbent upon Mr. Phillips to show how the project would actually interfere with sunlight reaching the house during the heating season. Mr. Phillips said that he did not know that to be the case. He said that he thought that the DRB would be able to tell and that he is willing to seek out someone with the expertise to make such a determination. He said that he has not seen the current plans and is willing to sit down with Mr. Sheir to try to address the issue.

Mr. Zalinger said that no evidence has been provided to show where the sun sets in the winter. Mr. O'Connell said that more discussion between the neighbors would put the Board in a better position to assess impacts. Mr. Sheir said that he is willing to have a more professional drawing if Mr. Phillips gets an expert to assess the sun exposure issue. He said that he could then discuss the project with the neighbors. He said that if they reach an agreement so that experts are not needed, he will notify Ms. Lawson or Ms. Smith.

Mr. Zalinger said that, if the applicant wished, he could request that the Board table the application in order to allow him to complement the plans that were submitted and have additional discussions with neighbors. Mr. Sheir said that he would like to have an understanding that if he has professional plans developed, Mr. Phillips will do a professional job on his side. Mr. Zalinger said that the DRB does not have the authority to order anyone to do anything before the next meeting. He said that the Board only reacts to what is before it. He told Mr. Sheir that he may request that the application be tabled, if he wished to do so. Mr. Sheir said that he wished to request the tabling of the application. He added that he will bring other neighbors who support his application to the next meeting. Mr. Zalinger said that if the application is tabled, it should be heard at the next meeting on July 19, 2004.

Mr. Zalinger said that the applicant has requested that the DRB table the application to allow him time to complement the plans and have further discussion with some of his neighbors. Mr. Lindley made a motion to table the application until the July 19, 2004 meeting. Mr. O'Connell seconded the motion. The motion was approved 6-0 with Mr. Blakeman recusing himself.

IV. Site Plan and Design Review

Applicant: Union Mutual of Vermont
Property Owner: Union Mutual of Vermont
Property Address: 139 State Street
Zone: CIV/DCD
Purpose: Site Plan and Design Review

- Generator unit

Interested Parties: Brad Keyser, Josh Fitzhugh

Mr. Zalinger reminded Mr. Fitzhugh and Mr. Keyser that they were still under oath. Mr. Fitzhugh said that they had initially sought approval of an emergency generator near the southwest corner of the Union Mutual property but the DRC recommended moving the location to a site behind the building. He said that a location was then proposed at the northeast corner of the property, but that concerns about noise and excessive installation costs caused the applicant to reconsider that location. Mr. Fitzhugh said that the proposed location of the generator is on State property about five feet from Union Mutual's property line. He said that, after lengthy discussion, the State agreed to be a co-applicant. He added that the agreement was not reached until late the afternoon of the DRB meeting and the packages of information before the Board were put together just before the meeting.

Mr. Fitzhugh said that he met with the DRC on the current proposal and that they recommended approval with the addition of some landscape plantings. He said that the generator would be located behind the parking lot used by the State Treasurer's office. There is a row of crab apple trees between the generator location and State Street. He said that the power conduits would be placed underground. Mr. Fitzhugh said that the top of the concrete pad would be placed above the flood elevation and the generator and an oil tank will be placed over the pad.

Mr. Fitzhugh said that the generator will create a noise level of 65 decibels at a distance of 30'. He said that this exceeds the ordinance limit of 65 decibels at the property line, but Union Mutual, the adjoining property owner that would be affected, does not object. He said that the business recently experienced an extended power outage and would request approval of the application as soon as possible. He also noted that the generator enclosure will be gray, not yellow as shown on the specification sheet from the supplier.

Mr. Lindley asked whether an engineer has approved the installation of the electrical lines across the properties. Mr. Fitzhugh said that they had. He also confirmed that the generator and tank will be located above the flood zone. Mr. Teschmacher asked what building is nearest to the installation location. Mr. Fitzhugh said that a State building on Baldwin Street is about 50 feet from the generator site.

Mr. Lindley asked how big a variance was being requested. Ms. Smith said that the staff had just received the information and had not had time to review it adequately. Mr. Zalinger noted that the proposal is in the setback and presents a jurisdiction in addition to design and site plan review. Ms. Smith said that the application raises the issue of variances from setback and noise requirements, but noted that the applicant's property is nearest to the project site. Mr. Zalinger said that it did not seem that the fact that the applicant is the neighbor who has consented to the application will negate the need for a variance. Ms. Smith said that information regarding lease lines and the executed agreement may be needed in addition to warning the variance. Mr. Matzner said that he would be more comfortable if the staff had time to fully review the application. Mr. Lindley said that the staff should determine what variances are required and then the variance application should be warned and noticed.

Ms. Smith said that the original application should be withdrawn. Mr. Fitzhugh asked the Board to consider the original applicant to be withdrawn and the current application substituted in its place. Mr. Keller asked how much time the staff needs to review the application. Ms. Smith said that the staff will put together a list of information needs. She said that there is a 15 day warning period once the application is complete. She said that she would be in a better position, tomorrow, to know the time frame for the application to be heard. Mr. Keller asked whether the Board needed to table the application. Mr. Zalinger said that the Board needed to respond to the applicant's request to withdraw the existing application. Mr. Fitzhugh said that the applicant is requesting to withdraw the application for Site #1 and #2 and to proceed with Site #3 as quickly as possible. Mr. Zalinger stated that the applicant is on record withdrawing the applications for Sites #1 and #2 and that the DRB considers those applications to be withdrawn.

Other Business

There was no other business.

Adjournment

Mr. Lindley made a motion to adjourn the meeting. Mr. O'Connell seconded the motion. The motion was approved unanimously.

Respectfully submitted,

Stephanie A. Smith, Planner

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.