

Montpelier Development Review Board
October 18, 2004
City Council Chambers, City Hall

Subject to Review and Approval

Present: Kevin O'Connell, Acting Chair; Roger Cranse; Jack Lindley; Alan Blakeman; Douglas Bresette; Guy Teschmacher, Dave Keller
Staff: Stephanie Smith, Administrative Officer

Call to Order

The meeting was called to order by Mr. O'Connell, who was acting as Chair.

Comments from the Chair

Mr. O'Connell said that action on the minutes would be deferred until later in the meeting.

I. Consent Agenda

A. Design Review

Applicant: Washington County Mental Health
Property Address: 62 Barre Street
Zone: CB-II/DCD

- Replacement of wooden fire escape and ramp with metal spiral staircase and ramp.
- DRC recommended approval with adjustments.

B. Design Review and Sign Permit Applications

Applicant: Phil Gentile
Property Address: 44 Main Street
Zone: CB-I/DCD

- Replace door
- DRC recommended approval with adjustments

C. Sign Permit Application

Applicant: Legus and Bisson
Property Address: 107 State Street
Zone: CB-I/DCD

- 7.5 square foot wall sign
- DRC recommended approval as submitted

Mr. Blakeman asked whether Mr. Gentile or Mr. Wright had any problem with the suggested options. They did not.

Mr. Blakeman made a motion that the three items on the consent agenda be approved with staff recommendations and advisory comments. Mr. Cranse seconded the motion. The motion was approved unanimously.

II. Continuation of Public Hearing - Appeal of Administrative Officer's Action

Appellant: Yvonne Byrd
Property Address: 110 Ledgewood Terrace
Zone: MDR

- Appeal of the Administrative Officer's determination that there was no violation of zoning permit #2001-0184

Interested Parties: Yvonne Byrd, Soren Pfeffer, Irene Facciolo

Mr. O'Connell swore in all those wishing to testify. Mr. Keller said that he would step down and would not participate in this matter because he did not attend the previous meeting where the matter was discussed. Ms. Smith stepped down from the DRB table as this matter is an appeal of a determination by the Administrative Officer.

Mr. O'Connell said that the DRB had requested certification that the structure was built in conformance with the permit. He said that the DRB received materials today in response to that request. Mr. Pfeffer said that the Board had received a letter from his attorney, a survey and a letter from the surveyor and a letter from the staff. He said that, although Ms. Byrd should be responsible for any needed survey work, he had the survey work done in order to resolve the issue. He read the attorney's letter aloud. He also read from the surveyor's letter as follows: "It is customary for setback measurements to be observed to edge of the structure."

Ms. Byrd said that she had just received copies of the letters. She said that the garage in question is not an attached garage. She said that she was told by Gail Lawson that the measurement of the setback was to the closest point on the building. She said that Ms. Lawson also told her that the requirement that the setback be increased if the building height exceeds 20' would apply. Mr. O'Connell said that the permit issued by a prior Administrative Officer became a valid permit even if it was in error. Mr. O'Connell said that he would want a legal opinion on the issue of the overhang.

Ms. Byrd said that she takes exception to the closing paragraph of the attorney's letter which states that it is too late to question the project. Ms. Byrd said that she raised concerns with the property owner from the start of the layout of the garage foundation. She said that she also spoke to him about the height issue. Ms. Byrd said that she still questions whether a landowner can raise the ground level and then measure the height from the raised ground level. She said that the building was constructed at a time when there was no valid building permit. She said that the building permit expired three fourths of the way through June. She stated that the house was not constructed at that point and that there should be some consequence. Ms. Byrd said that she would also like an opportunity to have her own survey prepared.

Mr. Pfeffer said that the building permit was valid the entire time that construction was occurring. He said that the zoning permit did lapse while he was waiting for the prior administrative officer to inspect the site. Mr. Bressette asked when the survey work was done. Ms. Facciolo said that the survey map was dated October 15 and that the work was done in the preceding week. Mr. Pfeffer said that the surveyor was originally on the site to lay out the buildings and returned to the site to do the recent survey.

Mr. Blakeman asked Ms. Byrd what she would consider a satisfactory settlement of the issue. Ms. Byrd said that the removal of the upper story would satisfy her. Mr. O'Connell said that it was unlikely that the issue could be resolved tonight. He said that the only outstanding question seems to me the measurement of the setback to the building wall or the overhang.

Mr. Pfeffer gave the Board a photograph of the buildings. He said that the garage is attached.

Mr. Lindley made a motion that the Board recess the hearing and take this matter up in a deliberative session. Mr. Bressette seconded the motion. The motion was approved 6-0 with Mr. Keller recusing.

III. Public Hearing - Planned Residential Development Amendment - Site Plan Review

Applicant: Kenneth Senecal

Property Address: 420 Murray Hill

Zone: LDR

- Construction of one 70 square foot and one 140 square foot addition to existing house
- Construction of a 324 square foot patio

Interested Party: Kenneth Senecal

Mr. Senecal was sworn in. He said that the house was built in 1986. He said that he is proposing to extend the dining room wall by 5' to allow for a bay window and to construct another 10' x 14' addition. He said that he also proposes to install a stone patio. Mr. Senecal said that he understands that the DRB approval is required because the construction must be consistent with the original approval of the Murray Hill PRD. He said that the proposed development will meet all of the setbacks approved in the PRD.

Mr. O'Connell clarified that the patio does not need the DRB approval since it is a landscape feature.

Mr. Blakeman made a motion that the DRB approve the application for PRD Amendment and Site Plan Review with the staff recommendations and advisory comments. The motion was approved unanimously.

IV. Public Hearing - Conditional Use Review

Applicant: Lisa Masé

Property Address: 4 Langdon Street

Zone: CB-I/DCD

- Amendment of hours of operation for the Langdon Street Café

Interested Party Lisa Mase

Ms. Masé was sworn in. She explained the proposal to amend the hours of operation of the café from the previously approved hours. She said that she is proposing to change the opening time from 11:00 a.m. to 7:30 a.m. She said that she is also proposing to stay open until 1:00 a.m. on Friday and until 2:00 a.m. on Saturday. She said that she also wished to be closed on Sunday instead of Monday.

Ms. Smith read the staff recommendations and advisory comments aloud. Ms. Masé said that the conditions were acceptable. Mr. Cranse said that he felt uncomfortable imposing the recommended condition restricting the hours of delivery when other businesses seem to have more flexibility. He asked whether the condition is consistent with restrictions on other businesses. Ms. Smith said that she did not research previously approved projects. She said that other downtown locations have better ability to accommodate deliveries, but the Elm Street neighborhood is very tight. She said that, if the condition is on the record, the City will be able to take action if future complaints are received.

Mr. O'Connell said that this application is before the Board for review and he is not troubled about imposing the condition. He said that the traffic situation in the neighborhood is very tight. Mr. Bressette said that he is also bothered by the use of the "shall not" wording. He said that there are problems with deliveries all over the city. He said that it seems unfair to put a restriction on one business just because the Board thought of it. Mr. Lindley said that it does not seem burdensome to restrict deliveries for a 2 ½ hour period per day.

Mr. Cranse said that the problem is that trucks make deliveries when they are scheduled to be in the area.

Mr. Keller made a motion that the Board approve the application for Conditional Use Approval with the staff recommendations and advisory comments except for comment 1a. Mr. Cranse seconded the motion. The motion was approved unanimously.

V. Public Hearing - Conditional Use Review

Applicant: Robert Hitzig
Property Address: 154 Main Street
Zone: CB-II/DCD
• Establishment of an art gallery and café

Interested Parties: Robert Hitzig

Mr. Hitzig was sworn in. He described his proposal to open an art gallery and small café in the first floor commercial space of his building. He said that the café will serve coffee and pastries and will have three or four tables.

Ms. Smith said that the Board had approved design changes to this building at the previous DRB meeting. She said that the applicant proposes four tables with up to 12 seats and also requests approval for up to 30 seats for special events. She said that the TRC requested the elimination of parking space #10 in order to provide adequate throat distance at the driveway and prevent vehicle stacking into the roundabout.

Mr. O'Connell asked for a description of the special events. Mr. Hitzig said that they would be occasional evening events such as the opening of gallery shows.

Ms. Smith explained that the four existing apartments require one space each. She said that Mr. Hitzig is requesting that the Board adjust the number of spaces required for the existing artisan studio from four to one space. She said that the 30 proposed café seats would require five spaces and the gallery would require five spaces, but those numbers could be combined since the gallery and café occupy the same space. She said that the applicant is also proposing that the apartment spaces be shared with the gallery and café.

Mr. Cranse said that he does not think that the Board should accept the notion of shared spaces, but the idea of combining the café and gallery spaces makes sense. He said that reducing the artisan studio parking requirement from four to one space also makes sense. He noted that those conditions would result in a requirement for 15 spaces. Mr. Blakeman said that the building is in the CB-II zone and that there is on-street parking in the area. He noted that the special events would occur in the evening when parking demand eases. Mr. Teschmacher said that if the Board required the elimination of the space that the TRC identified, the applicant would be one space short. Ms. Smith read from the ordinance and said that it seems that the Board may consider shared spaces, on-street parking and pedestrian use in its consideration of the parking. Mr. Lindley said that the applicant would meet the required number of spaces, but the City is asking for the elimination of a parking space.

Ms. Smith read the staff recommendations and advisory comments. She noted that the applicant is proposing to serve beer and wine at the special events. Mr. O'Connell asked how frequently the special events would occur. Mr. Hitzig said that they would initially occur about once per month, but that the frequency could increase to once per week. Mr. O'Connell said that it is important that the record reflect that the regular café

use will be for 12 seats, but that special events may occur once per week. Mr. Cranse asked why the Board should require that the applicant return to the Board for an increase in seating over the 12 seats. Mr. O'Connell said that the Board is considering the hours and type of operation as well as the number of parking spaces. He said that other applicants are required to return to the Board for changes in the hours of operation.

Mr. Teschmacher asked the applicant to clarify whether outdoor seating is proposed. Mr. Hitzig said that he may provide outdoor seating in the spring and summer, but that the number of seats would not exceed 30.

The Board reviewed the conditional use criteria.

1. *Capacity of existing or planned community facilities.* No impacts are expected. Water and sewer use are not expected to exceed the prior beauty parlor use.
2. *Character of the area affected.* The applicants state that their proposal will "improve the character of the neighborhood by promoting the arts and providing light food and beverages on the edge of Montpelier's business district."
 - a. Performance standards in 814
 - i. *No use shall emit noise at the property line in excess of the standards set in the Montpelier code of Ordinances, Chapter 11, Article 10 [814].* Permits may be required for any outside events.
 - ii. *Emit odor which is offensive at property line [814]*
 - iii. *Emit dust or dirt at the property line [814]*
 - iv. *Emit smoke in excess of Ringmann Chart no.2 [814]*
 - v. *Emit noxious gasses which endanger the health, comfort, safety, or welfare of any person, or which have a tendency to injure or damage property, business or vegetation*
 - vi. *Emit lighting or signs which cause undo glare, which could impair the vision of a driver of any motor vehicle or are offensive to the neighborhood [814]*
 - vii. *Cause fire, explosion, or safety hazard, or create electrical interference[814]*
 - b. *Site plan review standards in 506.C.*
 - c. *Hours of operation.* Hours of operation are proposed to be 6 a.m. to 6 p.m. Monday through Thursday; 6 a.m. to 8 p.m. Friday; 8 a.m. to 8 p.m. on Saturday and 9 a.m. to 6 p.m. on Sunday. In the case of a special event, the gallery will not stay open past its proposed hours.
 - d. *Cumulative impact of the proposed conditional use taken together with other conditional uses in the neighborhood.* This is very compatible with other uses in the neighborhood.
3. *Traffic on roads and highways in the vicinity.* There will be no adverse impact on traffic. No increase over the prior use is expected.

Mr. Lindley made a motion to approve the Conditional Use application with the following conditions:

1. Parking space #10 will be removed
2. The seating may provide for up to 30 seats for special events
3. The hours of operation shall be 6 a.m. to 6 p.m. Monday through Thursday; 6 a.m. to 8 p.m. Friday; 8 a.m. to 8 p.m. on Saturday and 9 a.m. to 6 p.m. on Sunday. In the case of a special

- event, the gallery will not stay open past its proposed hours.
4. Special events will typically not exceed one per week.
 5. The artisan studio parking will be reduced to one space. In consideration of the availability of on-street parking, the total number of parking spaces on the site shall be at least 14.
 6. Conditional use review should be required if the nature of the proposed gallery/ café changes, including an increase in the number of seats above 30, a change in the hours of operation, table service, the need for commercial truck deliveries, regular service of alcohol to patrons, or other alterations to the proposal deemed to be substantial by the administrative officer.

Mr. Cranse seconded the motion. The motion was approved unanimously.

Minutes

Mr. Lindley made a motion to approve the minutes of the October 4, 2004 meeting. Mr. Bressette seconded the motion. The motion was approved 6-0. Mr. Keller abstained because he had not attended that meeting.

Adjournment

Mr. Lindley made a motion to adjourn the meeting. Mr. Bressette seconded the motion. The Board unanimously approved the motion.

Respectfully submitted,

Stephanie Smith
Administrative Officer

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.