

**Montpelier Development Review Board**  
**May 2, 2005**  
**City Council Chambers, City Hall**

*Subject to Review and Approval*

**Present:** Philip Zalinger, Chair; Alan Blakeman; Roger Cranse; Douglas Bresette; Jack Lindley; Guy Teschmacher; Ylian Snyder, Kenneth Matzner (participated in item I and VI)  
Staff: Stephanie Smith, Administrative Officer

**Call to Order**

The meeting was called to order by Mr. Zalinger.

**Minutes of April 18, 2005 Meeting**

Mr. Lindley made a motion that the minutes of the April 18, 2005 meeting be approved. Mr. Blakeman seconded the motion. The motion was approved by a vote of 7-0.

**I. Public Hearing - Site Plan and Design Review**

Property Address: 56 College Street  
Applicant: New England Culinary Institute  
Property Owner: The Union Institute and University  
Zone: AI-PUD - HDR/DCD

- Lower eaves of connector
- Landscape alterations
- Reduction in width of drive
- Exterior lighting
- DRC recommended approval as submitted

Interested Parties: Eric Seidel, New England Culinary Institute and Jay Ancel, Black River Design

Participating members: Philip Zalinger, Chair; Alan Blakeman; Douglas Bresette; Jack Lindley; Ylian Snyder, Kenneth Matzner.

Mr. Cranse and Mr. Teschmacher each said that they would recuse themselves from participation in this application. Mr. Matzner stepped in to participate in the review. Mr. Ancel and Mr. Seidel were sworn in.

Mr. Ancel described the changes proposed to the previously approved development plan for a two-story addition to an existing building. He said that the changes were a response to the federal historic review of the project. He said that the major change is the lowering of the roof line on the facade. The pergola on the front was also changed to a light trellis. Ms. Smith noted that the trellis will no longer be attached to the building. Mr. Ancel described additional changes including the reduction in the width of the circular drive which allowed the sidewalk on the site to connect directly to the City sidewalk on the street. Wall lights were added at the door near the handicapped space and at the back entrance to the maintenance area.

Mr. Ancel said that proposed signage had been presented to the DRC, but would have to be the subject of a separate application to the DRB as the signage was not included in the warning for the DRB meeting. He said that he would like clarification from the Board on whether the wall-mounted, wood sign with carved lettering would represent a change that would require an amendment to the college master plan. Ms. Smith said that the sign would differ from the master plan due to its size, color, method of attachment and its use of carved lettering projecting out from the sign rather than routed lettering. Mr. Zalinger observed that the question raised an interesting issue since the property has been transferred from the original owner of the AI-PUD and has no common purpose with the original AI-PUD, but is still considered part of the AI-PUD. He said that the question about the sign brings up the question of when a building would stop being part of an AI-PUD. Mr. Ancel said that he understood that the building was still part of

the AI-PUD. Ms. Smith agreed, saying that the property was still governed by the AI-PUD master plan. Mr. Zalinger said that NECI would not want a Union Institute sign on its building. Ms. Smith noted that the master plan provides some flexibility on the sign colors, but was intended to address community uses in the AI-PUD. Mr. Ancel said that the DRC accepted the sign but did not address the issue of whether the sign constituted a significant change to the master plan. Mr. Zalinger said that he would not want to see NECI artificially change its sign to comport to the master plan, but the property is part of the AI-PUD that is governed by the master plan. He said that the Board will have to address this issue when it takes up the application. Ms. Smith said that the Board could make a determination, at the time the application was heard, that the sign does not represent a significant alteration to the master plan based upon factors such as the different ownership of this lot, but she noted that the master plan does contain language regarding the use of consistent signage on other uses in the AI-PUD. She said that these are factors that the DRB will have to consider as part of the application.

Mr. Bresette asked whether the reduced driveway width met safety requirements. Mr. Ancel said that he met with the Fire Chief who confirmed that the fire lane requirement does not apply to buildings that have sprinkler systems like the subject building. Mr. Ancel said that the Fire Chief had no problem with the driveway width. Mr. Matzner said that the reduced width would also have the benefit of discouraging parking along the driveway. Mr. Zalinger asked whether the driveway allowed two-way traffic. Mr. Ancel said that vehicles will be able to enter from either end of the drive and that one car would have to pull into the drop-off area in order for two cars to pass. Mr. Bresette expressed concern with two-way use of the narrow drive at a busy intersection. Mr. Ancel said that the applicant would like to have some experience with the drive to see if changes are needed. He said that the drive could be widened, but that would work against the goal of reducing the amount of pavement on the site. Mr. Bresette said that the drive would work the best if the entrance was on College Street. Mr. Zalinger said that he would be comfortable if the plan designated a one-way drive with the details of the traffic direction to be worked out. Mr. Bresette asked whether the one-way designation could be placed in a condition. Ms. Smith said that it could be made a condition of approval. She asked how the one-way use would be designated on the site. Mr. Seidel said that pavement markings could be used or a sign added if needed.

Mr. Lindley made a motion that the Board grant Site Plan and Design Review approval to the application with the staff and advisory comments and a condition requiring the designation of one-way only traffic through the driveway. Mr. Blakeman seconded the motion. Ms. Smith said that she could run the one-way traffic question by Tom McArde, DPW. Mr. Bresette said that he would rather hear from the Chief of Police. Mr. Matzner noted that the motion did not specify which way the traffic would circulate on the drive. Mr. Lindley said that he left the motion that way to allow the applicant to work out the best direction of circulation on the drive. The Board approved the motion by a vote of 6-0.

Mr. Matzner then stepped down and Mr. Cranse and Mr. Teschmacher rejoined the Board for the next matter.

## **II. Public Hearing - Variance Request**

Property Address: 46 Phillips Road

Applicant: Brian Cain

Property Owner: Brian Cain

Zone: LDR

- Construction of a second story residential addition on an existing single family residence
- Variance of 15' requested from the rear yard setback requirement

Interested Party: Brian Cain

Participating members: Philip Zalinger, Chair; Alan Blakeman; Roger Cranse; Douglas Bresette; Jack Lindley; Guy Teschmacher; Ylian Snyder

Mr. Cain was sworn in. Ms. Smith described the application for a 15 foot dimensional variance from the rear yard setback in order to allow the construction of a second story addition over an existing garage. She said that the

addition requires a variance even though it is entirely located over the footprint of the existing garage because the existing structure does not meet the setback. Mr. Cain said that the addition was to allow for a new master bedroom and bathroom over the attached garage. He said that the house and garage were built in 1975 or 1976, but he did not know the date of the subdivision that created the lot. Mr. Zalinger said that it would be helpful to know when the subdivision occurred. He asked Mr. Cain to check his title insurance for that information.

The Board reviewed 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 fact that the entire rear 15 feet of the existing house and garage are in the rear setback constitutes a unique physical circumstance.
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 variance is necessary to allow a reasonable use of the property as strict application of the requirement would limit the width of the second story addition to only 11 feet.
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 relates to the location of the existing house on the land rather than personal circumstances.
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 building will continue to be a principal residence. Adjacent property owners have been notified and no evidence has been received from them. The project 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 plan shows no increase in the encroachment into the setback. The requested variance represents the minimal deviation.
6. *The variance will not result in the initiation of a nonconforming use of land.* The use of the land will remain residential.

Mr. Blakeman made a motion to grant the requested variance of 15 feet from the rear yard setback. Mr. Bresette seconded the motion. The motion was approved by a vote of 7-0.

### **III. Public Hearing - Variance Request**

Property Address: 2 Peck Place  
Applicant: Barbara Bruno  
Property Owner: Barbara Bruno  
Zone: HDR

- Construction of an attached shed on an existing single family residence
- Variance of 6' requested from the eastern side setback requirement
- Variance of 10' requested from the southern side setback requirement

Interested Party: Barbara Bruno

Participating members: Philip Zalinger, Chair; Alan Blakeman; Roger Cranse; Douglas Bresette; Jack Lindley; Guy Teschmacher; Ylian Snyder

Ms. Bruno was sworn in. Ms. Smith said that the applicant was requesting a 6 foot variance from the east side yard setback and a 10 foot variance from the south side yard setback. She said that the variances were requested for the construction of an attached shed. She explained that repairs to the foundation of the existing house would require the removal on an existing shed and the applicant would like to reconstruct a sturdier shed on the same footprint. Ms. Bruno said that part of the old rock foundation for the house is failing and the attached shed must be removed to allow for the repair of the foundation. She said that the shed will be replaced at the same location as the existing one and the dimensions of the replacement will be the same as the existing shed. Ms. Smith said that she believed that the shed has a footprint of 88 square feet.

Ms. Bruno said that the shed is used for outdoor storage. She said that she did not know when it was built, but it existed in 2001 when she bought the house. Mr. Cranse said that he drove by the site and thought that the shed was not up to the aesthetics of the house. Ms. Bruno said that she is planning to rebuild the shed so that it will be stronger, to repair the door and to construct a roof to replace the tarpaulin that is used as a cover. Mr. Zalinger asked whether a concrete foundation will be installed for the shed. Ms. Bruno said that no foundation was proposed. She said that her plan was to replace the shed as it is but to make the changes that she described in order to improve the aesthetics and the neighbor's view.

Mr. Zalinger explained that, in its consideration of the variance, the Board will have to look at the impact of the variance on the neighbor. He said that the Board will need some assurance about the type and quality of materials to be used. He said that the Board is looking for some comfort from the applicant that the quality of what will be built with the variance will be compatible with the location within the setback near the neighbor's property line. Ms. Bruno said that she would like to make the shed look as much like the house as possible. She said that she might be able to use some siding left over from the house, but that her neighbor said that he likes the look of the existing fencing board siding. She said that she has spoken to her neighbors and wants to make the shed look good.

Mr. Zalinger said that, in order to make a decision, the Board needs to have a plan that shows the design of the shed. He said he wondered how the Board could proceed with conditions on the development when it does not have a firm idea of the actual proposal. Ms. Bruno said that her idea was that the size and shape of the shed would be the same as the existing. She said that she would make a few changes to improve it aesthetically and that she was working with her contractor who will take the shed down and replace it. Mr. Cranse said that he was reluctant to vote for a variance without a plan because of variance criteria #4 which addresses the character of the neighborhood. Mr. Lindley asked Ms. Bruno whether she could use the next two weeks to come up with a plan if the Board tabled the application tonight. Ms. Bruno said that she guessed that she would have to do that if it were her only choice. She asked that the application be first on the next agenda.

Mr. Lindley made a motion to table the application to the May 16, 2005 meeting. Mr. Bresette seconded the application. Mr. Zalinger said that an actual plan might not be necessary. He said that the plan could be explained in a narrative that describes the dimensions, location and composition of the roof and sides and where the door will be placed. He said that the Board will use the information to allow it to measure what is proposed and to allow comparison between the proposed development and what is built. The Board passed the motion by a vote of 7-0.

#### **IV. Public Hearing - Variance Request**

Property Address: 110 Chestnut Hill Road  
Applicant: Katherine and Richard Vanden Bergh  
Property Owner: Katherine and Richard Vanden Bergh  
Zone: LDR

- Construction of a 14' x 14' deck addition on an existing single family residence
- Variance of 60' requested from the rear yard setback requirement
- Variance of 1.8% requested from the lot coverage requirement

Interested Party: Katherine Vanden Bergh

Participating members: Philip Zalinger, Chair; Alan Blakeman; Roger Cranse; Douglas Bresette; Jack Lindley; Guy Teschmacher; Ylian Snyder

Ms. Vanden Bergh was sworn in. Ms. Smith described the application for a 60 foot dimensional variance from the rear yard setback for the construction of a screen enclosed deck. She said that a 75 foot rear yard setback is required in the LDR district. She explained that the existing house exceeds the lot coverage limit and that the applicant was proposing to increase the total coverage by 1.8%. Ms. Smith said that the applicant was removing an existing deck and constructing a new deck with screens. She said that a previously issued variance for an addition would remain in effect for two years, but that construction had not yet occurred. Ms. Vanden Bergh said that they were no longer planning to construct that addition. She said that the old 24' x 12' deck blocked light to the first floor bedrooms and that it has been removed. She described the proposed construction of a new 14' x 14' cedar deck behind the garage. Ms. Vanden Bergh said that removable screens will be attached to form the sides and roof of the deck and that the screens will be taken down for the winter. She said that, since the plans were drawn, the proposal has been amended to move the deck so that it will be attached to the back of the existing garage. Ms. Vanden Bergh said that she believed that the house was built in 1978. Mr. Zalinger said that it was important for the DRB to know the date of construction. Mr. Teschmacher noted that the footprint of the proposed deck would actually be smaller than the previously existing deck.

The Board reviewed 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.* It appears that the entire existing house is located within the 75' 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 variance is necessary to allow any deck on the rear of the house.
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 is clearly related to the location of the existing house within the setback rather than personal circumstances.
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 of the deck will be consistent with the principal single family residential use. Adjacent property owners have been notified and no evidence has been submitted from them. There is no evidence that the project will 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 plan has been modified to place the deck at a location abutting the existing garage. Every effort has been made to request the minimal deviation.
6. *The variance will not result in the initiation of a nonconforming use of land.* The use of the land will remain residential.

Mr. Lindley made a motion to grant the variance for the appropriate rear yard setback and a total lot coverage increase of 1.8%. Mr. Cranse seconded the motion. Mr. Lindley said that he did not specify the rear yard setback because he was unsure of the exact distance. Mr. Zalinger said that the variance request as modified will have the deck 14 feet

from the rear line, but that distance will vary as the house is not parallel to the rear line. The motion passed by a vote of 7-0.

### **Recess**

Mr. Zalinger said that the Board would take a brief recess.

### **V. Continued Site Plan Review**

Property Address: 37 Berlin Street  
Applicant: Jon Anderson for Cumberland Farms  
Property Owner: Patricia Woodward  
Zone: GB

- Addition of six fueling positions
- Addition to gas island canopy
- Parking lot layout and ingress alterations
- Other associated site improvements

Interested Parties: Jon Anderson, John McCann, Cumberland Farms, Inc; Kerri Hall, Cumberland Farms, Inc.; John Steele, Dubois & King, Inc.; Eric Goddard, Knight Consulting Engineers, Inc.; Robert Chamberlin, Resource Systems Group. Inc.; John Kerin, Troy Osborne

Participating members: Philip Zalinger, Chair; Alan Blakeman; Roger Cranse; Douglas Bresette; Jack Lindley; Guy Teschmacher; Ylian Snyder

Mr. Anderson introduced the following additional witnesses: John Steele on landscaping, Eric Goddard on civil and geotechnical engineering, Robert Chamberlain on traffic engineering. Ms. Snyder said that she wanted to disclose that she is working on a project with Eric Goddard. She said that did not affect her ability to be objective. The additional witnesses were sworn in.

Mr. Anderson said that the applicant has tried to respond to the Board's questions and the neighbors' concerns. He said that landscaping had been addressed by John Steele. Mr. Steele said that he met with the neighbors on the site and developed a landscaping plan with two key components. The first is a buffer along the Kerin property line and the second is a buffer between the Osborne property and the Cumberland Farms site. Mr. Steele said that, along the Kerin line, the applicant will install a row of a small variety of arborvitae and a four-foot high chain link fence with black vinyl coated fabric and brown vertical slats. He said that this buffer will prevent headlights from shining on the Kerin property. He added that a strip of day lilies will be planted on the Cumberland Farms side of the fence. Mr. Steele said that a row of a larger variety of arborvitae (20'-30' high at maturity) will be planted on the back side of the proposed retaining wall. He said that a 10 foot wide strip of Vinca ground cover will be planted along the top of the retaining wall to help stabilize the base of the bank. He added that some low-growing viburnum shrubs will be planted near the sign by Route 2. Mr. Steele said that the total landscaping budget of \$7,800 exceeds the required 3% of the project cost which would be \$7,500.

Mr. Cranse asked how long it would take the trees along the retention wall to reach their full height. Mr. Steele estimated that they would grow 1'-1 ½' per year and reach mature height in 20 to 30 years. Mr. Bresette asked what depth of soil would be required for the proposed trees. Mr. Steele said that the trees will have ball and burlap root balls. He said that he is confident that there will be plenty of soil to support them and that the geotechnical consultant could speak more on that. He said that the bank is supporting the many existing trees on the bank. Mr. Kerin asked whether the arborvitae along his aunt's property line were a variety that would provide a solid hedge row. Mr. Steele said that they were. He said that they will be planted 3' on center and will grow together to form a solid hedge. Mr. Osborne said that he was happy with the landscaping proposal. He noted that the applicant had also agreed with him to remove as few trees from the bank as possible. He said that he was concerned about the stability of the bank below his house. Mr. Anderson said that his letter states that the applicant will let Mr. Osborne designate what trees are to

be cut on the bank and trees will not be cut unless Mr. Osborne so designates them for cutting.

Mr. Anderson said that the applicant had considered the noise concerns. He said that Cumberland Farms has a particular way that it does business and the use of the audio system is related to safety and the proper running of the business. He explained that the pumping of gas is monitored for safety reasons and the company likes to be able to talk to the customers for that reason. He added that the monitoring also discourages drive-offs. Mr. Anderson said that Cumberland Farms has adopted a better audio system for its new stores and has decided to install that system at this site. He said that the newer system will put the speaker closer to the customer than the existing speakers that are located in the canopy. He explained that a noise analysis was completed for the new system assuming it will be installed and run according to the manufacturer's specifications. Mr. Anderson stated that the analysis determined that the speaker system would create a noise level of 70 decibels at a distance of 4 feet from the speakers. He said that the system will comply with the ordinance standards for both nighttime and daytime noise. He added that the analysis also checked the special muffler that was previously installed for the compressor and confirmed that it was working as expected.

Mr. Lindley said that he could not recall any discussion during the original variance application regarding the speakers in the canopy at this location. He asked whether any other businesses in Montpelier that use outside speakers in canopies. Mr. Anderson was not aware of any. Mr. Lindley asked whether there were any Cumberland Farms in this area without speakers. Mr. Anderson said that he did not know of any Cumberland Farms without speakers in the area. He said that he believed that they were used at all locations, but it was possible that there may be a few without speakers. Mr. Lindley observed that other business selling gas operate without speakers. He asked whether the speaker system was really a means of preventing drive-offs. Mr. Anderson said that was not the case and that the speakers were a safety measure. He said that for safety reasons Cumberland Farms does not allow the customer to walk away while the gas is pumping. He said that the company differentiates itself from those other companies.

Mr. Lindley posed the question of whether Montpelier was to allow every other business to install speaker systems. Mr. Anderson said that Montpelier has a strong noise ordinance and that the DRB has no basis to turn down the application because of the sound system if it complies with the ordinance. Mr. Lindley asked if the reason that the sound system was not discussed with the Board in the prior application was because the applicant believed the system to be in compliance with the ordinances. Mr. Anderson said that he did not spot the sound system as an issue that needed to be called to the Board's attention at that time. He said that the noise limitations are not in the zoning ordinances, but are police enforced limitations. He said that it was not the case that the applicant or its representatives did not disclose or intentionally misrepresented the situation.

Mr. Bresette asked whether the speakers were used for music. Mr. McCann said that they were not used for music. He said that they were used to acknowledge the fact that the customer is there and to let them know they are being monitored. Mr. Zalinger asked whether it was the case that instructions are given to each customer and every transaction requires that the customer stand there and hold the pump to keep it activated. Mr. McCann said that was correct. Mr. Blakeman asked where the speakers will be located on the new system. Ms. Smith said that there is an illustration of the appropriate placement of the speaker on page 4 of the exhibit. Mr. Zalinger asked if there were cameras also. Mr. Anderson said that there were cameras only to allow the reconstruction of events if there was a problem.

Mr. Anderson said that the higher the speakers, the further they are from the customer and the more volume is needed to be heard. He said that Cumberland Farms is moving the speakers closer to the customer. He said that the proposal will meet the standards and that he believed that it will be quieter than the current system. He added that the sound level of 70 decibels at a distance of 4 feet from the speakers is equivalent to a normal conversational level. Ms. Snyder said that the diagrams in the exhibit show a recommended height. She asked whether there were any assurances of the actually proposed height. Mr. Anderson said that he believed that the assumption in the report is

that the recommended height will be used and he would confirm that. He said that the applicant would accept a

condition that the recommended height of 48 inches will be used and that he would let Ms. Smith know by overnight if that is a problem.

Mr. Teschmacher said that the Board had previously discussed limits on the time of use of the speakers. Mr. Anderson said that Cumberland Farms is prepared to accept a restriction of the time of use. He said that the applicant would propose that the speakers not be used between 10 p.m. and 6 a.m. He noted that the ordinance says that noise levels should be reduced after 9 p.m. so that time could be accepted as the time to stop the use of the speakers. Mr. Bresette asked what would be done for the customers after 9 p.m. that could not be done before that time. Mr. McCann said that the pumps would not be turned on until the customer came into the store. He said that would not be a customer-friendly way to operate all day and that it was a convenience issue for the customers. Mr. Anderson said that it was a convenience issue for the customers to meet the safety requirements, but in balancing the issue of the number of customers served versus the neighborhood concerns, Cumberland Farms would be willing to turn off the speakers during the time period discussed.

Mr. Bresette said that he was not convinced of the need for a speaker system since other similar businesses do not have speakers. Ms. Hall said that the speaker system allows her to acknowledge the customer is there and welcome them. Mr. Anderson said that the law is that the applicant can do anything that is not restricted. Mr. Bresette said that he understood that position, but remained concerned about the noise from the speakers. He said that he believed that the sound would carry further because the speakers would no longer be directed down and because the number of pumps and activity on the site will increase. Mr. Anderson stated that Cumberland Farms is saying that this is a legal business issue and, while others may not do it, that is the way Cumberland Farms wants to do business. He said that he would ask that the project be approved and, if a majority of the DRB disagreed with the speaker system, that be addressed as a condition.

Ms. Snyder said that the brochure shows buttons for music on the speaker system, but it had been represented that no music would be played. She asked if the applicant would object to a condition saying that no music may be played. Mr. Anderson said that music will not be run through the speaker system and he would accept a condition to that effect. Ms. Smith asked whether only one speaker will be used at a time. Ms. Hall said that only one speaker is used at a time. Mr. Zalinger asked what speakers were tested. Mr. Anderson said that the existing speakers were not tested. He said that a computer program was used to simulate and forecast the sound level at the property line. Mr. Zalinger asked how the Board would know that the speaker system that is installed is the same that was analyzed. Mr. Anderson said that the actual test cannot be run until the equipment is installed. He said that he thought that a condition requiring testing to demonstrate that the equipment is working as expected would be fair. Mr. Zalinger asked if there is a volume control on the system. Ms. Hall said that there is a volume range but that she did not usually adjust the volume, but would raise her voice if needed. Mr. Bresette said that the volume adjustment could throw off the analysis. Mr. McCann said that the speakers had to be louder at the current height in order to be heard. He said that they will be lower under the proposed plan and would not need to be as loud. Mr. Anderson said that the applicant would accept a condition that said that the volume controls could not be changed once they are set.

Mr. Kerin said that the 9 p.m. to 6 a.m. shutoff on the speakers was fine, but he would like to see a condition requiring some way to address noise if it exceeds the estimates. Mr. Osborne said that he did not see why the speakers were necessary, but he appreciated the shutoff times. He said that he would also like to have the speakers set at a low volume.

Mr. Anderson said that Margot George had submitted a letter saying that the lighting should be 20 foot candles under the canopy. He said that, independent of that letter, the applicant had been working on reducing the lighting under the canopy. A row of lighting was taken and the wattage of the lights was reduced. Mr. Anderson said that the highest level under the canopy is now 22.5 foot candles and the difference between that level and 20 foot candles was probably not discernable. He said that a light pole near the Osborne property was also removed. He said that the lighting under the canopy is now proposed at the safety level and the canopy will be the second darkest canopy in Montpelier. Mr. Zalinger said that the Board had asked for the illumination level at the property line. Mr. Anderson

said that is shown on the plan. He said that the site complies without considering landscaping except to a corner at the Osborne property where a great deal of landscaping is proposed. He said that he believed that the landscaping would reduce the light level to 0.4 foot candles.

Mr. Anderson said that the size of the proposed canopy is shown on the plans to be 48' x 69'. Mr. Zalinger asked about what appeared to be a dimension of 24' on the canopy. Ms. Smith said that dimension may apply to the concrete pad under the canopy.

Mr. Anderson said that a plan has been provided to show where and when the fuel truck delivers. He said that it arrive between 10:30 a.m. and 12:00 p.m (70% of the time) or 10:30 p.m. and midnight (30% of the time). He stated that it is a company requirement that trucks be turned off during delivery. Mr. Anderson said that the site design is intended to get cars off of the road before they have to decide which gas lane to use. Mr. Bresette said that the testimony at the last meeting was that fuel deliveries occurred any time in the morning after 7 a.m. or after 5 p.m. He expressed concern that fuel delivery trucks would conflict with cars trying to get onto the site. Mr. Anderson stated that, if that was said, it was not correct. He said that fuel deliveries occur between the times he had described. Mr. Bresette said that he was concerned about cars waiting in the road during the deliveries. Mr. McCann said that occurs now and that it is hoped that the extra space provided under the proposed plan will alleviate that situation.

Mr. Chamberlin described the plans related to traffic circulation. Mr. Cranse said that it looked like there was room for a car to get to the pumps while a delivery is occurring. Mr. Bresette asked how the cars would get to the store. Mr. McCann said that they would travel through the pumping location or around them. Mr. Bresette said he was concerned about people walking around the pumps.

Mr. Zalinger asked Tom McArdle for his comments or observations on the circulation presented in the plan. Mr. McArdle said that he thought the plan would present an opportunity to address some situations that had developed since the site was redeveloped. He said that the initial redevelopment had addressed a wide open curb cut, cars backing into the driveway and cars parking on the sidewalk. He said that this plan presents an opportunity to address issues that have come up since the redevelopment. Mr. McArdle said that the obstruction of vehicles at the entryway would be addressed by having a clear throat or entry point. He said that the site is not functioning as well as initially presented because the volume has increased on the site. He explained that he looked at the new plan with the idea of addressing the existing volume and the new volume. He said that the proposed driveway entrance will have room for two vehicles to stack up behind cars in the fuel island even with a car in the back fueling position. He said that the goal is to get cars off of the road quickly and onto the site before the drivers decide where to park. He said that there are two by passes around the fuel islands. Mr. McArdle suggested that one change to improve the plan might be to increase the curb radius from 10 feet to 5 feet. Mr. Zalinger asked whether the addition of landscaping cut back on the sight distance. Mr. McArdle said that the landscaping was far enough back to avoid that. He said that it was more important that the snow be removed from the snow storage area promptly. Mr. Anderson said that the applicant is willing to work with Mr. McArdle if he sees ways to improve the plan.

Mr. Bresette asked Mr. McArdle whether he had concerns about the tractor trailers used in the fuel deliveries. Mr. McArdle said that the site is busy, but there is still 40 feet behind the truck during deliveries. Mr. Bresette asked Mr. McArdle whether he thought that the trucks would be backing out. Mr. McArdle said that he tries to make sure that the design makes it possible to maneuver through the site and out the exit. He said that he thought this plan does that, but the Board could take testimony on that issue from the designer. Mr. Anderson said that the applicant had provided materials showing that it was possible to drive through the site. Mr. Lindley asked Mr. McArdle whether he thought that the project will serve as a magnet and increase traffic on Route 2. Mr. McArdle responded that research shows

that convenience stores are typically 70% to 80% pass-by traffic, but this store may have quite a bit of destination

traffic. Mr. Lindley asked why a traffic study was required for the Dunkin Donuts application. Mr. McArdle said that was a significant change in use with a significant increase in volume expected. He said that the Cumberland Farms already existed and was requesting more pumping stations. He added that traffic on the road is probably at a poor level of service now. Mr. Anderson said that in response to questions raised by Mr. Kerin, traffic had been analyzed and a letter stating the results of the analysis had been provided.

Mr. Anderson said that another remaining issue was geotechnical. He said that Mr. Kerin had submitted a copy of a letter recommending that the geotechnical question be addressed before construction. Copies of that letter were passed out to the Board. Mr. Zalinger said that the DRB recessed the hearing to address specific outstanding questions and did not do so to allow the parties to research all issues and present new information. Mr. Kerin said it did not matter since agreement had been reached on this. Mr. Anderson said that Knight Engineering had been hired. He said that they identified a construction related issue that the bank must be stabilized. Mr. Anderson said that he had proposed that it will develop a plan for stabilizing the bank over the next week and make the plan available to Mr. McArdle and the neighbors. He said that if any party was not satisfied, the applicant would return to the DRB for a determination on whether the plan was satisfactory to the DRB. Mr. Anderson said that he would also talk to Cumberland Farms about the bank stability issue and his heavy recommendation is to find a way to maximize the value for everyone. He said that he hoped that the Board would take that attitude into account when it considers the noise issue.

Ms. Snyder recalled that the Board had a question on the stability of the bank in relation to landscaping. Eric Goddard said that he visited the site and found that there was an overburden of two feet of soil over the ledge in the area of the deepest proposed cut. He said that the ledge face will be about 8 feet high and that a retaining structure would be installed into the ledge uphill of the cut to retain the soil. He said that the retaining structure would be installed before making the cut to remove the ledge. Mr. Bresette asked whether the soil and retaining structure would support the proposed arborvitae. Mr. Goddard said that the retaining structure will be pinned into the ledge and will hold the soil in place. He said that it will be adequate to support the landscaping.

Mr. Connor stepped up and testified that he has worked for Cumberland Farms, Inc. as their contractor. He has completed approximately 5 stores in Vermont. He said that he can attest to the quality of design with respect to retaining walls, and that the company only uses professionals.

Mr. Lindley made a motion to close the hearing and for the Board to move into a deliberative session at a later date.. Mr. Blakeman seconded the motion. The motion passed 5/1 with Mr. Cranse voting against the motion and Mr. Zalinger abstaining.

#### **VI. Public Hearing - Conditional Use Review**

Property Address: 358 Gallison Hill Road  
Applicant: Alan Lendway  
Property Owner: Alan Lendway and Steve Ribolini  
Zone: IND

- Construction of 10,080 s.f. building for office use
- Change of use of 2,000 s.f. of existing warehouse to retail
- Construction of parking, ingress and egress and other site alterations

Interested parties: David Frothingham, DeWolfe Engineering Associates, Paul White, Boutwell Masonic Temple, Tom McArdle, DPW

Participating members: Philip Zalinger, Chair; Alan Blakeman; Roger Cranse; Douglas Bresette; Jack Lindley; Guy Teschmacher; Kenneth Matzner

Ms. Snyder informed the Board that she was involved in the conceptual plans and that she would recuse herself from

this application. Mr. Matzner stepped up to fill the Board.

Mr. Frothingham and Mr. White were sworn in by the Chair. Mr. Zalinger commented that there appears to be an issue that should be discussed before they take evidence on the application before them. Mr. White was representing the Masonic Temple. They have concerns regarding some stakes that were found in the field. They believe that what is staked in the field does not represent the property lines. Mr. Frothingham stated that he compared a survey of the Masonic Temple's property lines with the submitted plans and that they line up, and that the stakes in the field did not necessarily mark the property lines. Mr. Frothingham was certain that the plans presented were accurate.

Ms. Smith gave a brief summary of the proposed project for 10,080 square feet of office space in two new structures, and conversion of 2,000 square feet of a 12,000 square foot warehouse space to retail. The retail use and the office space are conditional uses in the Industrial district. The existing warehouse building is used by Black Diamond.

Mr. Cranse asked if there are any prospective tenants for the proposed office buildings. Mr. Frothingham said no. Mr. Blakeman asked what the buildings would look like. Mr. Frothingham said that this has not been developed yet. He did know that they are single story construction.

Mr. Matzner asked how far back from the road is the existing building. The structure is 58 feet back. Mr. Bresette asked if trucks currently back into the site from Gallison Hill Road, or is it possible to make the maneuver onsite.

Mr. McArdle stated that one of the reasons a landscape barrier between the parking lot and loading areas was not shown on the site, as he understood it was to allow for trucks to make the maneuvers necessary to access the loading docks. Mr. Frothingham confirmed this and that they expect to have one to two deliveries a week to the warehouse.

Mr. Lindley asked at what point does the Board and/or the City consider traffic at the Route 2 intersection. Mr. McArdle stated that there are specific warrants that are considered before a traffic light or other changes are instituted at an intersection, and that the City is monitoring the intersection. The office use will more than likely have an impact. This intersection also sees traffic from the region, it is not only traffic from Montpelier. Ms. Smith commented that the proposed uses will trigger an impact fee, which will be payable prior to issuance of the building permit.

Mr. Matzner asked for additional information concerning the impacts to the identified wetlands. Mr. Frothingham stated that a wetland that is proposed to be filled, the Army Corps of Engineers is involved. The wetland they proposed to fill is less than 3,000 square feet, and is not considered large enough for the minor review by the Army Corps.

The Board discussed landscaping and the minimal proposed expenditure. Mr. Frothingham stated that the applicant was willing to accept the staff recommendation of a buffer between this use and the adjacent land use that is residential. Mr. Zalinger felt that the regulation encouraging landscaping for landscaping sake was perfunctory. Ms. Smith commented that a buffer is encouraged to screen differing land uses and that this could be included to meet the 3% of the development cost.

Mr. McArdle commented that the proposed project has received water and sewer allocation. It will be sprinklered. A member of the Board asked whether the Montpelier Bike Path comes this far up Gallison Hill Road. Mr. McArdle said that the bike path ends at the Civic Center.

Mr. Cranse inquired about onsite circulation. Mr. McArdle stated that the Technical Review Committee (TRC) wished that the drive connected through to an adjacent driveway that currently provides access to the Masonic Temple. This would limit the number of curb cuts on the property; however, the TRC understands that this is not a public road and this would be difficult.

Mr. Cranse moved approval of the proposal with staff recommendations. Ken Matzner seconded the motion. The

motion passed 6/0 with Mr. Zalinger abstaining.

**VII. CONTINUED - Public Hearing - Conditional Use and Design Review**

Property Address: 623 Stone Cutters way  
Applicant: Hunger Mountain Co-op.  
Property Owner: Hunger Mountain Co-op.  
Zone: RIV/DCD

- Temporary 28' x9' refrigerated trailer

Ms. Smith understood that the applicant is working on assembling information.

**VIII. Site Plan Amendment and Design Review**

Property Address: 493-535 Stone Cutters Way  
Applicant: River Station Properties II, LLC  
Zone: RIV/DCD

DRC tabled this application and tentatively rescheduled it for DRC review on May 3, 2005.

**Other**

There was no other business.

**Adjournment**

Mr. Lindley made a motion to adjourn the meeting. Mr. Blakeman seconded it. The motion passed 7/0. The meeting adjourned.

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.*