

Montpelier Development Review Board
July 18, 2005
City Council Chambers, City Hall

Subject to Review and Approval

Present: Philip Zalinger, Chair; Alan Blakeman; Douglas Bresette; Roger Cranse; Jack Lindley; Ken Matzner; Guy Teschmacher
Staff: Stephanie Smith, Administrative Officer

Call to Order

The meeting was called to order by Mr. Zalinger.

Minutes of July 5, 2005, Meeting

Mr. Lindley made a motion to approve the minutes of the July 5, 2005 meeting. Mr. Cranse seconded the motion. The Board voted 6-0 (Mr. Blakeman abstained) to approve the minutes.

I. Design Review

Property Address: 152 Main Street
Applicant: Cassandra Lansky
Property Owner: John R. Lansky DDS Family Dentistry, P.C.
Zone: CB-II/DCD

- Replace an asphalt shingle roof with a metal standing seam roof with ice guards
- Change in color of the building trim to green
- DRC recommended approval with adjustments

Interested Party: Cassandra Lansky

Mr. Zalinger and Mr. Cranse both stated that Dr. Lansky was their dentist but that would not interfere with their ability to be impartial.

Mr. Zalinger asked Ms. Lansky if she was in agreement with the adjustments recommended by the DRC. Ms. Lansky said that the recommendations were acceptable.

Mr. Blakeman made a motion that the Board grant design review approval of the application. Mr. Matzner seconded the motion. The board approved the motion unanimously.

III. Continuation of Public Hearing - Variance

Property Address: 40 Wheelock Street
Applicant: Bert Klavens and Barbara Asen
Property Owner: Bert Klavens and Barbara Asen
Zone: MDR

- Variance of 14' from the north side yard setback and a variance of 3' from the south side yard setback for the construction of a 36' x 24' second story addition
- Variance of 3' from the south side yard setback for the construction of a 15' x 10' covered porch accessible entryway

Mr. Klavens said that he was proposing an addition to his house in order to provide additional living space to accommodate his father-in-law. Mr. Klavens said that the original design for the addition was changed when it was

determined that the garage foundation was not adequate to support a second story addition. He described the current proposal to demolish the garage, install a concrete slab foundation and construct a two-story addition over the garage footprint. He said that the proposed construction will be no closer to the property line than the existing building. Mr. Cranse said that the plans appeared to show that the addition will extend three feet further into the rear yard. Ms. Smith said that was correct, but noted that the rear yard is not an issue. She said that the addition will also increase the amount of building that is in the south side yard setback. She added that an entrance way will be expanded in the south side yard setback, as well.

Ms. Smith asked what the height of the building would be. Mr. Klavens said that the height did not seem to be noted on the plans, but the elevation drawings were to scale. Mr. Teschmacher said that the building height appeared to be around 26' based on the scaled plans. Ms. Smith said that the ordinance requires an additional foot of setback for each foot of height in excess of 20'. Mr. Zalinger said that he thought that the Board could proceed with its review of the application since it was warned for sideyard variances.

Mr. Bresette said that the application required variances of 14' on one side and 3' on the other. Mr. Cranse said that 6' should be added to those distances to address the additional setbacks due to the building height. He said that the variance request would then be 20' on the side nearest to 38 Wheelock Street and 9' to the side nearest 42 Wheelock Street. Mr. Bresette asked the applicant whether he had spoken to his neighbors about the application. Mr. Klavens said that he spoke to the neighbor at 42 Wheelock and dropped a letter off at 38 Wheelock. He said that the neighbors at 42 Wheelock were fine with the application and he had not heard from the other neighbors. Mr. Zalinger asked if anyone wished to be heard on the application. No one responded.

The Board considered 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 existing lot is narrow, with a width of less than 70' and does not meet the minimum lot width of 100'.*
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 house was constructed in 1932 and the lot was created in 1929. The existing house is already in the side yard setbacks and the front yard setback.*
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 house and lot were created before the zoning ordinance was adopted. The hardship relates 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 continue to be a single family dwelling. There is no evidence that adjacent property will be impaired. There is no evidence that the variance would 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 proposed construction will not increase the encroachment that already exists on the site.*

6. *The variance will not result in the initiation of a nonconforming use of land.* The property will continue to be used as a single family dwelling.

Mr. Cranse made a motion that the Board approve a variance of 20' from the north side yard setback and 9' from the south side yard setback for a two-story addition and a variance of 3' for the small porch addition near the front of the house. Mr. Lindley seconded the motion. The motion was approved unanimously.

III. Site Plan Review

Property Address: 17 North Franklin Street
Applicant: Mark and Vivienne Adair
Property Owner: Vivienne Adair
Zone: HDR

- Change of use from one dwelling unit and an office to three dwelling units

Interested Party: Vivienne Adair

Ms. Smith said that this application was for site plan approval for a change of use. She explained that the prior approval for the property was for a single family dwelling and an office. She said that three dwelling units were established in the building sometime in the 1980's. She said that the applicant is requesting site plan approval at this time in order to clarify the permit record.

Mr. Teschmacher asked how the parking requirements for three dwelling units compare to the requirements for one dwelling unit and an office. Ms. Smith said that the current requirements for three dwelling units would require fewer spaces than for the dwelling unit and office. Ms. Smith advised the Board that one of the existing parking spaces is in the front yard setback. She said that the ordinance states that parking spaces may not be located in the front yard setback. Mr. Bresette recalled that one of the spaces in the front of the building was used as a turnaround back into the 1950's. Ms. Smith said that she could not take enforcement action on a situation that existed prior to 1989.

Mr. Teschmacher asked whether the Board was being asked to approve the site plan with the parking spaces as shown. Ms. Smith said that was correct. She said that the Board could approve or deny the spaces, but she did not have authority to take enforcement action. Mr. Zalinger said that the Board could approve the site plan but disapprove the parking space that runs parallel to Mechanic Street to make it clear that the Board did not approve that space. He expressed concern that the parking restriction may run counter to safety and vehicular circulation concerns. Ms. Smith explained that the ordinance states that parking may not be in the front yard setback, but the ordinance definition of "may" is authorized but not required.

Mr. Blakeman made a motion that the Board grant site plan approval for 17 North Franklin Street. Mr. Cranse seconded the motion. The motion was approved unanimously.

IV. Site Plan and Design Review

Property Address: 623 Stone Cutters Way
Applicant: Hunger Mountain Coop
Property Owner: Hunger Mountain Coop
Zone: RIV/DCD

- Removal of four planted islands within the parking lot and partial removal of two additional planted islands.
- DRC recommended approval with adjustments.

Interested Party: Rowen Hurley

Ms. Smith explained that finding #1 of the staff report on the application describes the initially proposed changes to the parking lot. She said that the DRC had recommended the following adjustments:

- Curbing to be installed along the edges of the landscaping islands with the paved and concrete walk remaining the same width. Barriers will not encroach into the existing parking spaces.
- A minimum of four trees (two each in islands B and C) will be replaced from the original plan for a total of four.

Ms. Smith said that the DRC's recommendations resulted in the replacement of four of the eight missing trees with curbing installed around the islands. Mr. Lindley asked if there was any reason to believe that curbing will protect those trees. Mr. Hurley said that the problem has been caused by car bumpers hitting the trees. He said that the length of the long islands would be reduced so that the car bumpers can swing around without hitting the trees. He said that the Coop likes the DRC recommendations and will propose to put timber curbing and the plantings in. Mr. Blakeman asked if there would be any change in the number of parking spaces. Mr. Hurley said that the number would not change.

Mr. Bresette noted that the e-mail message from John Snell, of the Tree Board said that there had previously been a commitment from the Coop to maintain the trees and that curbing would help to protect the trees. Mr. Bresette asked if the Coop intended to maintain the trees on the site. Mr. Hurley said that the Coop was proposing to install timber curbing to protect the trees. He said that the Coop has replaced the trees many times in the past. Mr. Bresette asked whether there were curbing requirements in the ordinance. Ms. Smith said that there are standards for curbs on streets, but no requirements for parking lots. Mr. Hurley said that the DRC made recommendations for the curbing options.

Carol Naquin, the Co-Chair of the Montpelier Tree Board, said that the Tree Board would like to see some type of curbing to protect the trees. Mr. Bresette expressed concern about how the timber curb would be secured and how long it would last with snow plowing in the lot. Mr. Hurley said that the snow is plowed by dragging it out of the parking spaces rather than pushing it into the islands. He explained that the landscaper said that the timbers will be securely pinned into the ground so that it would be difficult to drag them out.

Mr. Lindley said that he understood that the Coop wants to protect trees so that they do not have to be constantly replaced. He asked how the Coop would feel about a condition that provides that, within reason, work can be done as needed to protect the trees. Mr. Hurley said that type of condition would be acceptable. He said that the current proposal was to install the landscaping timbers. Mr. Lindley clarified that, if those timbers fail to provide the needed protection, the Coop would move immediately to another option. Mr. Hurley agreed. Ms. Smith said that the site is in the design review district, so the work should stay within the options that were suggested by the DRC.

Mr. Matzner made a motion that the Board grant design review and site plan approval with the DRC's recommendations. Mr. Blakeman seconded the motion. The motion was approved by a vote of 6-1 with Mr. Zalinger voting in opposition.

V. Reopening of Public Hearing for Site Plan and Design Review

Property Address: 22 Court Street
Applicant: Vermont Mutual Insurance Company
Property Owner: Vermont Mutual Insurance Company
Zone: CB-II/DCD

- Demolition of an existing building and construction of a parking lot.

Interested Parties: Rick DeWolfe, Charles Martin

Mr. Zalinger said that the hearing was being reopened so that the Board could take additional testimony on the demolition question. He said that the last hearing had been closed inadvertently and the Board later realized that the hearing should remain open for the receipt of additional testimony.

Charles Martin said that the Board should make sure that the cost of general maintenance on a periodic basis is not included in the estimate of the cost of making the property economically feasible. Mr. Zalinger said that comments will be accepted on the analysis when it is received.

Mr. Zalinger asked if there was any comment from the applicant. Mr. DeWolfe said that he spoke with Brian Eagan regarding the Board's wish to get another opinion. Mr. DeWolfe said that the applicant stands by its testimony, but does not object to the reopening of the hearing if that is the Board's condition. Mr. Zalinger said that the hearing has been reopened. He said that a decision must be rendered within 45 days of the closing of the hearing.

Other

Conditional use reviews: Ms. Smith referred to the Board's interest in receiving additional information related to the requirement for a conditional use review of zoning permit applications involving existing nonconforming lots. She said that the Board member's packets contained copies of an Environmental Court decision for 186 Berlin Street and other materials relating to that question.

Adjournment

Mr. Matzner made a motion that the meeting be adjourned at 8:15. Mr. Bresette seconded the motion. The motion was approved unanimously.

Respectfully submitted,

Stephanie Smith
Administrative Officer

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.

Transcribed by Kathleen Swigon