

Montpelier Development Review Board
September 6, 2005
City Council Chambers, City Hall

Subject to Review and Approval

Present: Philip Zalinger, Chair (participated in items II through adjournment); Alan Blakeman; Kevin O'Connell, Vice Chair; Douglas Bresette; Roger Cranse; Jack Lindley; Guy Teschmacher; Ylian Snyder (participated in item I)
Staff: Stephanie Smith, Administrative Officer

Call to Order

The meeting was called to order by Mr. O'Connell who said that he would be serving as chair until Mr. Zalinger arrived.

Minutes of August 15, 2005, Meeting

Mr. Lindley made a motion to approve the minutes of the August 15, 2005 meeting as submitted. Mr. Blakeman seconded the motion. The minutes were approved unanimously

I. Consent Agenda

a. Design Review

Property Address: 35-37 Court Street
Applicant: Vermont Bar Association
Property Owner: Vermont Bar Association
Zone: CB-II/DCD

- A 5.8 square foot ground sign
- DRC recommended approval with an adjustment

Interested Parties: Tom Quinlan

Tom Quinlan represented the applicant. Ms. Smith explained that the DRC recommendation included the adjustment that the alignment of the sign could be angled slightly towards Gov. Davis Avenue.

Mr. Blakeman made a motion that the Board grant design review approval with the DRC recommendation. Mr. Bresette seconded the motion. The motion was approved by a vote of 7-0.

b. Design Review

Property Address: 90 Main Street
Applicant: NW Sign Industries for Banknorth Group, Inc.
Property Owner: Banknorth Group, Inc.
Zone: CB-I/DCD

- Two 7.5 square foot wall signs within the sign band (one on the State Street side and one on the Main Street side)
- DRC recommended approval as submitted

Interested Parties: Mike Sweeney, of NW Sign Industries

Ms. Smith described the application for the replacement of two existing wall signs with aluminum overlays and aluminum plate copy.

Mr. Blakeman made a motion that the Board grant design review approval to the application. Mr. Bresette

seconded the motion. The motion was approved by a vote of 7-0.

II. Design Review

Property Address: 9 School Street
Applicant: NW Sign Industries for Banknorth Group, Inc.
Property Owner: Banknorth Group, Inc.
Zone: CB-I/DCD

- Six wall signs (one 22 s. f., two 3.78 s.f., two 1.65 s.f. and one 7 s.f. wall signs)
- One ground sign (2.69 s.f.)

Interested Parties: Mike Sweeney of NW Sign Industries

Ms. Smith described the application for the proposed replacement of seven existing signs with aluminum overlays with vinyl copy. She said that two signs at the entry to the teller lanes are to remain. She said that the DRC reviewed the application based upon plan sheet #05-758 which indicates that the ATM facing Main Street sign will be removed. She said that some of the application materials refer to replacing "like for like" and this appears to be inconsistent with the plan. Mr. Sweeney said that sheet 05-0758 is the document that the applicant wants to go ahead with. Ms. Smith said that would mean that the sizes of the signs as stated in finding #2 of the staff report are correct and the ATM sign will be removed. Mr. Sweeney agreed and said that sign #7 will be removed. Mr. Zalinger asked whether sign #10 is to be removed. Mr. Sweeney said that sign will remain and will be refaced.

Mr. Lindley made a motion that the Board grant design review approval to the application with the removal of sign #7. Mr. Blakeman seconded the motion. The motion was approved by a vote of 6-0 with Mr. Zalinger abstaining.

III. Design Review

Property Address: 70 Main Street
Applicant: Jeffrey Jacobs
Zone: CB-I/DCD

- Canvas awning with a 3.54 square foot sign on the awning
- Rear awning and approval for vinyl siding on southern elevation

Ms. Smith said that the applicant requested that these applications be reviewed together and that the review be postponed to the October 3, 2005 meeting.

IV. Public Hearing - Variance, Conditional Use Review and Design Review

Property Address: 20 Corse Street
Applicant: Kris Hammer and Nancy Chickering
Property Owner: Kris Hammer and Nancy Chickering
Zone: LDR

Ms. Smith described the request for a dimensional variance of 45 feet from the south side yard setback for a proposed 8' x 20' sunroom addition and a dimensional variance of 14 feet from the south side yard setback for a 12' x 12' addition. Mr. Zalinger asked Mr. Hammer whether he had any problems with the DRC recommendations. Mr. Hammer said that the recommendations were satisfactory. He said that the 12' x 12' addition would create more space and make the house more symmetrical. He said that the other addition would build out the living room by 8 feet. He said that two sliding glass doors would be replaced with five fixed glass windows and skylights would be built in place.

Mr. Zalinger asked Ms. Smith to explain why the 12' x 12' addition requires a variance. Ms. Smith said that the LDR district requires a 40-foot front yard setback and a 100 foot combined sideyard with no side yard less than 40 feet. She said that the 12' x 12' addition does not meet the setback on the south side. She said that the lot was subdivided in 1910 and the house was built in 1982. Ms. Smith said that she found no record of the issuance of a variance at that time. Mr. Hammer said that, because of the LDR zoning, any addition to the property would require a variance.

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 lot is more narrow than the zoning would allow. The lot was created in 1910.*
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. No addition to the property could occur without a variance. It is reasonable to allow for some additions to 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. This is readily apparent as the lot was created in 1910.*
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 applicant's testimony is that the house will continue to be used as a single family dwelling. There have been no objections from the neighbors. The proposal 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 encroachment into the setback will not increase over that which already exists. This represents the least deviation.*
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 residence.*

The Board considered the conditional use criteria and the site plan provisions.

1. *Capacity of existing or planned community facilities. There will be no impact on the capacity of community facilities.*
2. *Character of the area affected.*
 - 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].*
 - 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. *Compatibility with existing and proposed development for the area [504].*
 - d. *Cumulative impact of the proposed conditional use taken together with other conditional uses in the neighborhood.*
 - e. *Traffic generated per unit [504].*
 - f. *The noise generated per unit [504]*
 - g. *Any factors judged to have an adverse impact on the area [504]*
 - h. *The cumulative impact of the proposed conditional use taken together with other conditional uses in the neighborhood [504].*

There will be no changes that will affect the character of the area.

- 3. *Traffic on roads and highways in the vicinity. There will be no impacts.*

Site Plan Review Criteria

- 1. *Pedestrian Access and Circulation [803].*
- 2. *Vehicular access and Circulation [803].*
- 3. *Parking and Loading. [805 and 807].*
- 4. *Landscaping and Screening [808].*
- 5. *Fences [809].*
- 6. *Outdoor lighting [810].*
- 7. *Performance standards [814].*
- 8. *Site protection and design [815].*
- 9. *Utilities [825].*
- 10. *Provisions to protect the utilization of renewable energy resources.*
- 11. *Impact fees [Table 1200].*

The Board accepted the staff findings.

Mr. Lindley made a motion that the Board grant the requested approval. Mr. Blakeman seconded the motion. Ms. Smith asked that the motion be clarified. Mr. Lindley said that the motion was that the Board grant the request for variances, conditional use, design review and site plan. Mr. Blakeman agreed. The motion was approved by a vote of 7-0.

V. Public Hearing - Conditional and Final Subdivision Review

Property Address: 123 Robinhood Circle
Applicant: Douglas McArthur
Property Owner: Douglas McArthur
Zone: MDR

- Two lot subdivision of a 2.3 acre parcel into a 0.39 acre parcel with an existing house, garage and gazebo, and a 1.9 acre parcel with an existing shed.

Ms. Smith described the application for a two-lot subdivision of a 2.3 acre parcel into a 0.39 and a 1.9 acre parcel. She said that the 0.39 acre lot would contain the existing house, garage and gazebo and the 1.9 acre lot would contain an existing storage shed. Ms. Smith said that the most recently submitted plan shows that the shed and gazebo will

not meet setbacks based on the location of the proposed property line between the shed and gazebo. She said that the determination is based upon a scaled measurement between the two buildings and the proposed line rather than the setback indicated on the plan. She said that the application had not been warned for a variance. Mr. Zalinger said that the variance criteria require that the DRB find that the hardship must be based on the applicant's land rather than personal circumstances. He said that this would be very difficult to meet that criterion for a subdivision. Mr. McArthur said that it appeared that the only recourse would be to remove one of the buildings. Mr. Bresette said that the proposed subdivision line would also have to be moved.

Ms. Smith asked whether the DRB could approve the application with a condition addressing the setback issue. Mr. Lindley said that he believed that the Board needed to have the final document before it. Mr. McArthur said that he would like to give more thought to the application. Ms. Smith said that the sketch plan approval would only be effective for a one year period. Mr. Zalinger said that the applicant would be starting over with a new plan and it did not make sense to extend the original sketch plan approval.

Mr. McArthur said that he would withdraw the application.

VI. Amendment to Planned Residential Development - Final Review

Property Address: 191-221 Barre Street
Applicant: Central Vermont Community Land Trust
Property Owner: River Station Planned Community
Zone: CB-II/DCD

- Increase density from 50 units to 54 units (36 rental and 18 condominiums)
- Construction of covered parking areas and other site changes
- A request for a waiver from the side yard setback requirement by 12 inches for the apartment portion of the project.

Interested Parties: Kathy Beyer of Housing Vermont, Tim King and Will Giblin of Central Vermont Community Land Trust, Jeff Stetter of Gossens Bachman, Rick DeWolfe and David Frothingham of DeWolfe Engineering Associates

Ms. Smith said that this is a final review of the major amendment to a planned residential development. She said the previously approved development consists of 50 residential dwelling units on a 1.66 acre lot. She said that the proposal is to increase the density from 50 units to 54 units. She said that there has been a change in the size of the footprint of the rental building and a request for a setback waiver had been withdrawn.

Kathy Beyer, representing Housing Vermont, described the final application for 36 rental units and 18 condominiums. She described how the application would fit into the Barre Street neighborhood and provided an elevation drawing of the rental building. She provided copies of the protective covenants that she said would restrict the number of investor units to three. She provided a description of how the project complies with the goals of Montpelier's Master Plan. Dr. Pearson asked how many nonowner occupied units would be allowed at any one time. Ms. Beyer said the documents limit the number of nonowner occupied rentals to three at any one time. Mr. Lindley asked how the limit would be enforced. Ms. Beyer said that the limitation would be contained in the public offering statement of the condominium. She said that once three rental units were designated, there could be no more rentals until one of the other rentals is converted to owner occupancy. Mr. King said that the documents would limit to three the number of units that may be rented for more than 6 months. Mr. Bresette said that would mean that once three units were rented, another owner who needed to leave the area could not rent his unit. Ms. Beyer said that she understood that this is not an unusual feature of a condominium development. She said that the buyers need to read the documents. Mr. Bresette said that he was curious as to how strong the provision would be. Mr. King said that his organization has another complex that is 100% owner occupied and that association is able to enforce the rule.

Mr. Lindley expressed concern that the working capital fund be properly funded. Mr. King said that it is in all parties' interests to establish a healthy fund at the outset.

Ms. Smith asked whether there would be a common location for the satellite dishes. Ms. Beyer said that she would hope to have a common dish rather than 18 individual dishes.

Dr. Pearson said that the project was originally presented as 50 units with 14 owner-occupied units. He said that the City provided \$100,000 funding to the project based on 14 owner-occupied units. He noted that the current proposal was for 18 units with only three of them rented and said that the site would be even more congested with the additional units. He said that the only place for children to play will be on the Charles Street extension. Dr. Pearson said that he would like the Board to limit the units to 50 with the limitation that the rental units not exceed three or, alternatively, allow the 54 units, but require 100% owner-occupancy.

Mr. Blakeman asked about any limits on clotheslines. Mr. King said that the actual working documents of the condominium association would address those types of things.

Mr. Zalinger asked whether there is a setback issue before the board. Ms. Smith said that the waiver request for the apartment building has been withdrawn, but there are active waivers requested for the condominium building.

Mr. Cranse said that the currently approved plan includes room for a 0.1 acre park. He asked whether that area was now to be developed. Ms. Beyer said that the area had been proposed as green space but no park or playground equipment had been proposed. Mr. Cranse said that, under the proposal before the Board, that space will now be occupied by one of the buildings and a lawn area between buildings A and B would replace it. Ms. Beyer said that was correct. Mr. Cranse said that he was concerned about where the children would play. Ms. Beyer said that it is difficult to meet all of the competing goals on an urban infill site. She said that the developers felt that the proximity of the site to the Recreation Center would be sufficient to address the need. Mr. Cranse asked where the children would actually play. Mr. King said that they would probably go to the College green, the recreation path or St. Michael's playground. Ms. Beyer said that the project was in some ways, similar to the Elm Street project where there was no room for green space. Mr. Cranse said that this project would be new construction. He said that he regrets that there is no room for the children to play on the site because the result will be that they will play in the parking lot or street. He said that he found it difficult to support the project for that reason. Ms. Beyer said that issue was incredibly difficult to address on an infill project. Mr. Zalinger said that the City owns the new playground that is three blocks down Barre Street from this project. Mr. Bresette said that he felt that there will be an overall benefit from this project in an area that is trying to renew itself. He said that it was a good use of the property.

Mr. Lindley asked whether the Board had already approved the increase to 54 units under the conditional approval. Ms. Smith said that the decision is not final until the final approval is granted. Mr. Bresette said that the thought that the Board acknowledged the increase to 54 units under the conditional approval, still needs to grant a final approval.

Mr. Cranse asked about the decorative bracket that the DRC suggested in its recommendation. Ms. Beyer said that a rather plain bracket had been proposed, but chamfered elements on the bracket had been discussed. She said that there was an interest in keeping cost under control. Mr. Cranse said that he liked the DRC recommendations because the brackets that the applicant proposed for the front were too utilitarian and not in keeping with the rest of the buildings on the street. Mr. Beyer said that the applicant would offer to add the chamfered edges to the brackets. Mr. Bresette encouraged that those elements be added. Mr. Stetter noted that there is already a lot of detail on the front of the building.

Mr. Zalinger asked for clarification on the issue regarding the footprint of the apartment building. Ms. Beyer said

that the contractor poured the entire footing for the apartment building one foot too far to the east. She said that the owner of the adjoining building objected to the location of the apartment building any closer. Ms. Beyer said that the remedy was either to tear out the entire footing or to shorten the side of the building. She said that the bump-out on that side was previously two feet and now would be only one foot. Ms. Smith said that the regulations do not give good guidance on whether the change could be considered to be insubstantial. Mr. Bresette said that the DRB could go ahead with its review without a DRC recommendation. Mr. Zalinger asked how long the side of the building was. Mr. DeWolfe said that the side is 211' long. Mr. Zalinger said that he thought that a change of 12 inches over a 211' length was insubstantial. Ms. Smith said that she agreed that the change in the footprint was insubstantial, but was unsure about the resulting change in the design of the building. Mr. Teschmacher said that the elevation drawings showed the two elevations and the change is insubstantial. Mr. Bresette said that the side of the building faces the Barre Street Market and will only be seen from that location.

Mr. Zalinger asked for a discussion of the setback waivers. Mr. Stetter said that a 10" setback is requested to the handrails at the condominiums, an 8" setback is requested to the corner at Granite Street and a 12" setback is proposed to the decks on Stone Cutters Way. Ms. Smith said that the requested waivers were listed in the staff report. Mr. Zalinger said that the components that the Board needs to consider under the PRD provisions are the expansion of the units, the increase in density, the requested waivers and the change in the building elevation. Ms. Smith said that the plans and elevations would be reviewed under the PRD provisions. Mr. Zalinger said that he also understood that the plans will be changed to include chamfered edges on the brackets. Ms. Beyer said that was correct.

Ms. Smith read staff recommendations 8 through 11 as follows:

8. If approved, staff recommends that the applicant provide a financial guarantee for the cost of the proposed landscaping (\$15,191.00) for a period of one year after installation, prior to issuance of a building permit.
9. If approved, the applicant will be required to pay a park impact fee of \$250/unit (total of \$4,500) prior to issuance of a building permit.
10. If approved, staff recommends that the board require the applicant to provide to the contractor finish spot elevations to ensure proper grading and drainage opposite the garages for building C.
11. If approved, staff recommends a condition that any damage to the steps or railing during snow removal activities by the City, where the steps are located directly across from a utility pole shall not be the responsibility of the City of Montpelier, unless due to operator error or gross negligence.

Mr. Zalinger said that, in relation to recommendation 11, he did not believe that the DRB could establish the responsibility for property damage. Mr. Lindley said that he would like to have the spot elevations that were recommended to ensure that the drainage will work. Mr. DeWolfe said that he did not think that it is within the City's purview, but he would be happy to provide three or four spot elevations at no cost to the applicant.

Ms. Smith suggested that the DRB may wish to comment on neighborhood compatibility since that was an issue in the prior review. Mr. Cranse said that he was satisfied with the information provided by the applicant on that issue.

Mr. Zalinger said that the Board could consider the question of the amendment to the PRD and then take up the conditional use review. He said that he heard Dr. Pearson's concerns about density on the site, but the Board has to balance consequences and take into account that this is infill development. Dr. Pearson said that he understood. He said that he felt that the bylaws should prevent one owner from owning more than two rental units. Mr. Zalinger said that he was not sure what purpose would be served by such a limitation.

Ms. Smith said that she wanted to clarify that the lot will not be subdivided and that the line shown on the plan is a line showing the limit of the units.

The Board considered the conditional use criteria.

1. *Capacity of existing or planned community facilities.* The expansion from 50 units to 54 units does not burden the facilities.
2. *Character of the area affected.*
 - 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].*
 - 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. *Compatibility with existing and proposed development for the area [504].*
 - d. *Cumulative impact of the proposed conditional use taken together with other conditional uses in the neighborhood.*
 - e. *Traffic generated per unit [504].*
 - f. *The noise generated per unit [504]*
 - g. *Any factors judged to have an adverse impact on the area [504]*
 - h. *The cumulative impact of the proposed conditional use taken together with other conditional uses in the neighborhood [504].*

The incremental increase in units will not affect the character of the area.
3. *Traffic on roads and highways in the vicinity.* The original analysis was done for 60 units. There will be no change due to the four additional units.

Mr. Cranse made a motion that the Board approve the amendment to the PRD including the setback waivers, density bonus of four units, revised elevations for the apartment building, including staff recommendations #4, 7, 8, 9 and 10 (but not recommendation #11) and including the requirement that the brackets supporting the overhanging bays be finished out with chamfered edges. Mr. Bresette seconded the motion. Mr. O'Connell clarified that the waivers did not include the waiver request that was retracted. Mr. Cranse agreed with the clarification. The motion was approved by a vote of 7-0.

Other

Ms. Smith said that October 3 is Rosh Hashanah and asked if the Board wished to reschedule its meeting. She said that there is no City policy, and it is up to the individual boards to determine their schedules. Mr. Lindley said that federal holidays should be observed, but otherwise, the Board cannot address every holiday. There was general agreement to maintain the schedule. Ms. Smith said that she would be sensitive to any applicants with scheduling issues.

Adjournment

Mr. Teschmacher made a motion that the meeting be adjourned at 9:30 p.m.. 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.