

**Montpelier Development Review Board**  
**September 19, 2005**  
**City Council Chambers, City Hall**

*Subject to Review and Approval*

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

**Call to Order**

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

**Minutes of September 6, 2005, Meeting**

Mr. Bresette made a motion to accept the minutes of the September 6, 2005 meeting as submitted. Mr. Cranse seconded the motion. The minutes were approved unanimously

**I. Consent Agenda**

**a. Design Review**

Property Address: 4 Baird Street  
Applicant: Richard Rizza  
Property Owner: Richard Rizza  
Zone: CB-II/DCD

- Replacement of six existing garage doors
- DRC recommended approval with adjustments

**Interested Party:** Paul Rizza for the Inn at Montpelier

Ms. Smith described the application for the replacement of six existing wood garage doors with overhead doors. She said that the proposed doors will be wood framed with a composite covering that will look like wood when painted. Mr. Lindley asked the applicant whether he had reviewed the DRC's recommendations. Mr. Rizza said that he had reviewed them and had decided to retain the doors on the site to be used in another building.

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

**b. Design Review**

Property Address: 144 Main Street  
Applicant: Paul and Eleanor Baril.  
Property Owner: Paul and Eleanor Baril  
Zone: CB-II/DCD

- Proposed change to the exterior color of a building
- DRC recommended approval as submitted

Ms. Smith described the application for a change in the exterior color of the existing building. She said that the proposed colors will vary from a light shade of green for the body of the building to darker shades of green for the trim and building details.

Mr. Matzner made a motion that the Board grant design review approval to the application. Mr. Blakeman seconded the motion. The motion was approved by a vote of 7-0.

**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 Request and Conditional Use Review**

Property Address: 30 First Avenue  
Applicant: Dan Clar  
Property Owner: Dan Clar  
Zone: HDR

- A request for a 7.5' variance from the east side yard setback requirement for the construction of 8' x 18' addition on the north side of an existing non-complying garage

Mr. Blakeman said that Mr. Clar has done work for him in the past. Mr. Blakeman said that he did not believe that the association would interfere with his ability to be impartial. There were no objections to his participation in the review of the application. Ms. Smith described the application for a 7.5' variance from the east side yard setback and conditional use review for the construction of an addition to an existing noncomplying garage located at 30 First Avenue. She said that the 18' x 8' addition will be the same width as the existing garage.

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 house and garage were built in the 1950's and predate the adoption of the zoning ordinances.
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 slope on the lot limits potential locations for the addition. The 8' increase in the size of the garage is a reasonable use.
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 garage cannot be expanded at any other location. The garage will not be unusually large.
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 garage will continue to be used as a residential garage. 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 garage will be only slightly larger than a standard garage. The encroachment will not be increased. This represents the least deviation.
6. *The variance will not result in the initiation of a nonconforming use of land.* The use of the property will not change.

Mr. Cranse made a motion that the Board grant the requested 7.5' variance. Mr. Bresette seconded the motion. The motion was approved by a vote of 7-0.

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

The Board determined that the application met the Site Plan Review criteria.

Mr. Blakeman made a motion that the Board grant conditional use and site plan approval. Mr. Bresette seconded the motion. The motion was approved by a vote of 7-0.

**V. Public Hearing - Variance and Conditional Use Review**

Property Address: 101 Prospect Street  
Applicant: JGA Development LLC  
Property Owner: 101 Prospect Street Montpelier Holdings  
Zone: MDR

**Interested Party:** Walter Wood, JGA Development, LLC

Mr. Zalinger joined the Board and Ms. Snyder stepped down for this application.

Ms. Smith described the request for a variance and conditional use approval for the construction of a single family residence on a 0.17 acre lot. She said that the applicant is requesting a 10 foot variance on the north side yard and a 9 foot variance on the south side yard. She explained that a house existed on the site in 1993, but burned down. Mr. Wood said that this was a vital project. He said that an affordable home will be built by students from Spaulding High School and the building will be moved to the site.

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 was created in 1885. The lot is more narrow than the zoning would allow.
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 replacement of a single family home is a reasonable use.
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 related to the narrow width of the lot which was created in 1885.
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 application is for the construction of a single family dwelling in the MDR zone. 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 dimensions of the proposed dwelling are not excessive. This represents the least deviation.
6. *The variance will not result in the initiation of a nonconforming use of land.* The property will be used as a single family residence.

Mr. Matzner made a motion that the Board approve the requested variances. Mr. Bresette seconded the motion. The motion was approved by a vote of 7-0.

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

1. *Capacity of existing or planned community facilities.* This is a continuation of a residential use of what was a residential use lot. 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 no impacts.

#### Site Plan Review Criteria

Ms. Smith read the staff recommendations related to safety and site distances for the retaining wall and the requirement for a park impact fee. Mr. Wood said that he will try to change the site design so that there will be no need for vehicles to back out of the driveway. Ms. Smith said that staff recommends that the TRC review those changes if the variance request and conditional use review is granted.

Mr. Lindley made a motion that the Board grant the conditional use approval incorporating the staff recommendations and comments and subject to the TRC's review and acceptance of the final parking and retaining wall configurations. Mr. Blakeman seconded the motion. The motion was approved by a vote of 7-0.

#### VI. Site Plan Amendment

Property Address: 51 Berlin Street  
Applicant: Damartin Quadros  
Property Owner: John and Maria Quadros  
Zone: GB

- Request for an alteration to the previously approved delivery times.

Mr. Zalinger said that he would recuse himself from participation in the review of this application. He stepped down and Ms. Snyder joined the Board. Mr. Lindley sat as acting chair.

Ms. Smith said that this was a request for an amendment to a previously approved site plan. She said that the requested amendment was to expand tractor trailer delivery times to allow for a time period from 4:30 a.m. and 7:00 a.m. Mr. Matzner asked whether there had been some difficulty in adhering to the original schedule. Ms. Smith said that there had been some difficulty in meeting the previously approved time period of 4:30 to 5:30. She said that she had received information that deliveries were occurring at 6:30 a.m. She noted that the application information included copies of e-mails from Tom McArdle and Officer Neil Martel related to early morning traffic patterns at the site.

Mr. Cranse asked whether the zoning ordinances addressed delivery times. Ms. Smith said that they did not, but noted that the Environmental Court decision may have played into the DRB's previous action related to delivery times. Mr. Lindley said that the Board's previous approval included a condition limiting deliveries to the time period between 4:30 and 5:30. He said that the current request was for an expansion of that time period.

Mr. Bresette said that he traveled that street every morning at 7:00 a.m. He said that traffic is frequently backed up at that location. He said that he was concerned that the trucks be off of the site by 7:00 because the traffic greatly increases after 7:00 a.m.. He said that tractor trailers leaving the site after that time will cause further traffic backups. Mr. Quadros said that the trucks back into the site, but typically leave the site by turning to the right. Ms. Smith said that the Board could simply follow the Environmental Court decision which only prohibits deliveries from 7 a.m. to 9 a.m. Mr. Bresette said that he would want to use 6:30 as the limit. Mr. Cranse suggested that the Environmental Court limitations be used since the City ordinance does not contain specific limits.

Mr. Lindley said that it was his understanding that if the request was approved, deliveries would be concluded by 7:00 a.m. Ms. Smith said that Mr. Quadros has made the assurance that any deliveries after 7:00 a.m. would be made by van, but the Environmental Court decision applied to all deliveries.

Mr. Cranse made a motion that the Board approve the amendment to the site plan to change the delivery times to the

period from 4:30 to 7:00 a.m. Mr. Blakeman seconded the motion. Mr. Matzner asked whether it was clear that the intent was that deliveries must be concluded by 7:00 a.m. Mr. Cranse and Mr. Blakeman said that was clear. Mr. Matzner asked whether the condition meant that there could be no van deliveries outside of the delivery period. Mr. Lindley said that the DRB was not including any van deliveries from 7 a.m. to 9 a.m. The motion was approved by a vote of 6-1 (Mr. Bresette voted against the motion.)

### **Other**

- Ms. Smith said that the meeting packets included copies of correspondence related to the Capital Heights sketch plat review and to a violation at 535 Stone Cutters Way.
- Ms. Smith said that there had been no responses to the 22 Court Street RFP that the Board issued. She said that she had received some phone calls regarding it and had the impression that the issue might be that the preparation of a proposal might be too expensive for a contract as small as this one. Mr. Cranse asked if the work could be “sole sourced”. Ms. Smith said that she could contact the Division for Historic Preservation for recommendations and then contact a contractor directly. Mr. Zalinger said that he would like to put the matter back on a meeting agenda and invite the applicant and other interested parties to attend. Mr. Cranse said that the trouble with sole source contracts is that they may create an impression of favoritism. He said that, in this case, the Board tried to solicit proposals through the RFP and did not receive any responses, so a sole source contract could be justified. Mr. Zalinger said that he would like to have the other parties participate in the selection process. Mr. Bresette said that he was concerned that the applicant might again prefer a large firm that will have significant overhead expenses. Ms. Snyder said that the Board could choose to use a professional estimator rather than a contractor in order to get estimates that are more impartial. Mr. Zalinger expressed concern that those estimates may not be consistent with the price that the contractors would charge for the work. Ms. Snyder said that the estimators are also project managers and their estimates are fairly accurate. Mr. Zalinger said that he would then suggest issuing the RFP to estimators. The Board generally agreed with that approach. Ms. Smith said that she would get a list of estimators from Ms. Snyder and send the RFP out to them.

### **Adjournment**

Mr. Blakeman made a motion that the meeting be adjourned at 8:00 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.*