

**Montpelier Development Review Board**  
**April 17, 2006**  
**City Council Chambers, City Hall**

*Subject to Review and Approval*

**Present:** Phillip Zalinger, Chair (recused on item IV and V); Alan Blakeman; Douglas Bresette; Roger Cranse; Jack Lindley; Guy Teschmacher (did not participate in item VI and VII), and Ken Matzner (participated in items IV, V, VI and VII)

**Call to Order**

The meeting was called to order by Mr. Zalinger at 7:30.

**Minutes**

Mr. Blakeman made a motion that the minutes of the April 3, 2006 meeting be accepted as drafted. Mr. Lindley seconded the motion. The motion was approved 6-0 with Mr. O'Connell abstaining.

**I. Consent Agenda**

**a. Design Review - Sign Permit Application**

Property Address: 7 Main Street  
Applicant: John Durrance, Jr.  
Zone: RIV/DCD  
18" x 24" wall sign  
DRC recommended approval as submitted

**b. Design Review - Sign Permit Application**

Property Address: 7 Main Street  
Applicant: Jan R. Paul  
Zone: RIV/DCD  
18" x 24" wall sign  
DRC recommended approval as submitted

Ms. Smith said that the DRC had recommended approval of both of the applications for signs at 7 Main Street. Mr. O'Connell made a motion that the Board grant design review approval for both sign applications at 7 Main Street. Mr. Cranse seconded the motion. The Board voted 6-0 to approve the motion (Mr. Zalinger abstained).

**c. Design Review - Sign Permit Application**

Property Address: 5 High School Drive  
Applicant: Applicant: John Pelkey and Peter M. Evans  
Zone: GB/DCD  
Installation of a 32 square foot ground sign attached to an existing granite monument  
DRC Recommended Approval with adjustments and options  
Interested Parties: John Pelkey, Jr.; Brooke Pearson

Mr. Pelkey described the application for a changeable letter sign outside the Montpelier High School. He said that the sign was to be a gift from the senior class of 2006. He said that the DRC had suggested that the letters be forest green and that change would not be a problem. Mr. Pelkey said that he looked into the DRC's other suggestion that the letter be changed to a "times new roman" style serif font. He said that it would be too expensive to make that change.

He said that he had confirmed that the sign door would be lexan rather than plexiglass. Ms. Smith said that the landscaping was also to be replaced with four foot high trees if the existing trees do not survive the replanting. Mr. Pelkey agreed.

Mr. Blakeman asked who would maintain the sign. Mr. Pelkey said that each year's senior class would be responsible for the sign, but a teacher or advisor would hold the key and provide supervision. Mr. Bresette asked how the background would be kept clean. Mr. Pearson said that the sign will have a lexan cover. Mr. Bresette asked about the durability of the sign material. Mr. Pelkey said that the backing will be 3/4 inch plywood with a baked-on enamel finish.

Mr. Blakeman made a motion that the Board grant design review approval for the sign with the DRC recommendations. Ms. Smith clarified that the approval would not include the recommendation for the change in the typeface. Mr. Blakeman said that correct. Mr. Lindley seconded the motion. The motion was approved by a vote of 7-0.

## **II. Public Hearing: Conditional Use approval and Site Plan Review**

Property Address: 172 Berlin Street

Applicant: Malcolm Gray

Property Owner: Donna Caplan

Zone: GB

Construction of 11.5' x 14.5' single story addition to an existing medical clinic use building

Ms. Smith described the application for conditional use approval for the construction of a one-story 11.5' by 14.5' commercial addition. She explained that the existing building encroaches into the front yard setback and the lot does not meet the minimum frontage requirement. She said that the conditional use approval is required because the existing property is non-conforming. Mr. Gray described the proposed addition. He said that it would be used as a waiting room for patients and for storage. He said that the addition will be covered with siding that will match the existing exterior siding.

Mr. O'Connell asked whether additional parking will be required. Ms. Smith said that no additional parking is required since the parking requirement for a medical clinic is based on the number of practitioners. Mr. Blakeman asked about pedestrian circulation. Mr. Gray said that the proposed ramp will allow for handicapped access and will not block the sidewalk.

The Board reviewed the conditional use and relevant site plan criteria:

### Conditional Use

1. Capacity of existing or planned community facilities. The addition will not substantively change the activity at the office.
2. Character of the area affected.
  - a. Performance standards in 814: The staff's recommended findings regarding the performance standards were adopted by the Board.
    - 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 undue 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.: No impact is expected.
  - c. Hours of operation. No impact is expected.
  - d. Cumulative impact of the proposed conditional use taken together with other conditional uses in the neighborhood. No impact is expected.
  - e. The noise generated per unit [504]: No impact is expected.
  - f. Any factors judged to have an adverse impact on the area [504]: No impact is expected.
  - g. The cumulative impact of the proposed conditional use taken together with other conditional uses in the neighborhood [504]: No impact is expected. The addition is an improvement to an office use in the GB district.
3. Traffic on roads and highways in the vicinity. No expansion of the use is proposed.
  4. The zoning and Subdivision Regulations in effect [504]. No adverse impact is expected.
  5. Provisions to protect the utilization of renewable energy resources [504]. Not applicable.

#### Site Plan

1. Pedestrian Access and Circulation [803].
2. Vehicular Access and Circulation [804]
3. Parking [805 and 807].
4. Landscape and Screening [808].
5. Outdoor Lighting [810].

No changes are expected that would affect the relevant site plan criteria.

Mr. O'Connell made a motion that the board grant conditional use and site plan approval to the proposed addition. Mr. Blakeman seconded the motion. The motion was approved 7-0.

### **III. Public Hearing - Variance Request, Conditional Use Approval and Site Plan Review**

Property Address: 6 Walker Terrace  
Applicant: Steve and Nancy Post  
Property Owner: Steve and Nancy Post  
Zone: MDR  
Construction of a 2,400 s.f., 26' tall residential addition

Interested Parties: Nancy and Steve Post, and Tom Bachman

Ms. Smith explained that this application was for a variance and conditional use approval for the construction of a 1,200 square foot residential addition. She said that the existing building does not comply with the side yard setback requirements. Ms. Smith pointed out that the proposed addition would be 26 feet high, triggering the requirement for one additional foot of setback for each foot of height over 20 feet. She added that the Department of Public Works has not yet reviewed the proposed curb cut. Tom Bachman said that the applicant has been in contact with Tom McArdle, of the Public Works office and would work directly with him on the curb cut if the project was approved by the DRB.

Mr. Bachman said that the design of the addition had been modified to lower the proposed building height to 23'6", reducing the size of the setback variances needed. He said that the design keeps the garage depth as tight as possible while allowing room for one car in the driveway.

Mr. Zalinger noted that the applicants own the lots surrounding the subject lot and questioned why title to both lots had not merged since the lot does not meet setback standards. Ms. Smith said that the merger would occur only if the lot did not meet the minimum lot size requirement, which was not the case.

Mr. Zalinger asked whether any of the neighbors wished to be heard. No one responded. 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. Ms. Post explained that the architectural front of the house does not face Terrace Street, making the proposed location the logical one for an addition. Ms. Smith noted that the existing house was located in the side yard setback. Mr. Zalinger suggested that the unique circumstances would be the location of the house in the side yard and the unusual orientation to Terrace Street.
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. Mr. Bachman said that the house was built in the 1950s. Ms. Post said that she believed that the existing garage addition was built before 1973. Mr. Zalinger noted that the lot was created before the zoning ordinance was adopted. Mr. Cranse asked why the addition could not occur to the rear. Mr. Bachman said that would require renovation of the entire first floor because the living room and chimney are located to the rear, which is the architectural front of the house. He explained that the proposed addition will provide for a new bedroom on the second floor with access from an existing study, but if the addition was added to the architectural front of the house, it would be necessary to create an access through the existing bedrooms.
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. Mr. Zalinger said that the issue for the Board was that variances would not be needed if the lots were merged. Ms. Post said that the front yard setback would still require a variance. Mr. O'Connell said that he was also struggling with the finding of a hardship since the impact of the variance could be minimized if the lots were merged. Ms. Post said that the properties were acquired separately and asked the Board to judge the application based on the existing conditions.
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. This will continue to be a residential use in a residential neighborhood. The applicant owns the adjoining property.
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. Mr. Zalinger said that the applicant has adjusted the building height to try to limit the amount of variance required.
6. The variance will not result in the initiation of a nonconforming use of land. The use of the land will remain residential.

The Board reviewed the conditional use criteria and the staff recommended findings. Mr. Zalinger noted that there

was a site plan issue related to the additional curb cut, but the DRB does not have authority to grant curb cuts.

No impacts are expected with the proposed residential addition.

1. Capacity of existing or planned 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. Hours of operation.
  - d. Cumulative impact of the proposed conditional use taken together with other conditional uses in the neighborhood.
  - e. The noise generated per unit [504]
  - f. Any factors judged to have an adverse impact on the area [504]
  - g. The cumulative impact of the proposed conditional use taken together with other conditional uses in the neighborhood [504].
3. Traffic on roads and highways in the vicinity.
4. The zoning and Subdivision Regulations in effect [504].
5. Provisions to protect the utilization of renewable energy resources [504].

Mr. Cranse made a motion that the Board grant conditional use ,site plan approval and the variance request for a 14' front yard setback and a 13' side yard setback. Mr. Lindley seconded the motion. Mr. Zalinger said that he felt that the application just met the criteria because Walker Terrace ends at the property line and the applicant has little impact on any neighboring property owners. Mr. O'Connell said that this was a substantial addition and did not quite meet the criteria. Mr. Teschmacher said that he felt that the proposed design was logical for the addition. The Board voted to approve the motion 6-1 (Mr. O'Connell voted against).

#### **IV. Public Hearing - Subdivision - Conditional & Final Review**

Property Address: 201 Kildrummy Way

Applicant: Kali Erskine

Property Owner: Kali Erskine

Zone: LDR

Subdivision of a 75.8 acre parcel into three lots: Lot 1 containing 31.3 acres and the existing single family home; Lot 2 containing 10.3 acres; Lot 3 containing 34.3 acres

Development of two family homes

Interested Parties: Kali Erskine, Rick DeWolfe

Mr. Zalinger recused himself from participation and Mr. Matzner joined in the review.

Ms. Smith described the application for conditional and final approval of a three-lot subdivision of a 75.8 acre lot. Mr. DeWolfe said that the number of lots had been reduced from four to three because suitable soils could not be found for a septic system on a fourth lot, which had originally fronted on Towne Hill Road. Mr. O'Connell asked whether the conventional systems were acceptable septic systems on the proposed lots. Mr. DeWolfe said that mound systems will be necessary. Mr. Lindley asked how long the driveway was to Lot #3. Mr. DeWolfe said that it was 1,000 feet to the edge of Lot 3. He said that there will be a driveway maintenance agreement among the three property owners. Ms. Smith noted that the ordinances do not set a limit on the length of a private drive, but that no more than three lots could be served by a private driveway. Mr. Lindley asked whether the driveway was designed to accommodate access by emergency vehicles. Mr. DeWolfe said that the driveway will be about 12' wide. Ms. Smith said that the TRC, including the fire chief, had reviewed the plan and had no comments. She added that the houses will have to have sprinkler systems. Mr. Blakeman said that sprinklers alone will not be adequate if the hook and ladder fire truck cannot access the houses. Mr. DeWolfe said that he assumed that there will be enough room to allow the fire department's hook and ladder truck to turn around.

Mr. Blakeman asked where the wetland was. Mr. DeWolfe said that it was at the north edge of the property. Mr. Lindley asked how far the septic systems would be from the wetlands. Mr. DeWolfe said that they would be about 400' from the wetland and noted that the State requires only a 75' separation. Mr. Matzner asked whether the building envelopes were clearing limits. Mr. DeWolfe said that they show 100' by 100' areas where the houses could be placed. He said that there were "no cut" limits to make sure that the houses will be screened from each other. Ms. Erskine noted that the property was involved in the "Current Use" program and that two lots would more than likely continue to be enrolled.

Brian O'Regan said that he lived on the opposite side of Kildrummy Way and was concerned that the access from Towne Hill Road had been eliminated from the plan. Ms. Erskine said that the existing driveway would not be changed and that it presently supports large trucks for oil delivery and waste pickups. Mr. O'Regan asked whether additional houses would have to go through the zoning permit application process. Ms. Smith said that they would. Mr. Bresette asked whether the driveway would be upgraded since two additional homes would be using it. Mr. DeWolfe said that it would not be upgraded since the existing driveway could support the approximately ten additional vehicle trips per day. Ms. Erskine said that there is a lot of room to maneuver on the driveway to allow vehicles to pass each other. Bill LeCourt said that he lives across the street and pointed out that the existing home office also generates traffic from the property. He said that he was concerned about safety in the neighborhood. Ms. Erskine said that the home office results in a maximum of three cars, two days per week. Mr. LeCourt asked why the proposed access on Towne Hill Road had been dropped. Mr. DeWolfe said that the sight distance on that was just barely adequate for a 25 mph speed and the Department of Public Works was concerned that the traffic actually travels at greater speeds. Mr. LeCourt said that traffic on Hackamore Road is also a concern. Carol O'Regan said that the entrance on Towne Hill Road made more sense. She said that the additional traffic on Hackamore Road would change the character of the neighborhood. Mr. O'Connell asked whether there were sidewalks on the road. Ms. O'Regan said that there were none.

Ms. Smith said that the staff had not yet received a copy of the GMP response requested in staff comment #2. Mr. DeWolfe said that the applicant had not yet received it.

Mr. O'Connell said that he understood the public's concerns about traffic, but also understood the issue regarding sight distances on Towne Hill Road. He noted that the application was for only two additional houses.

Mr. Cranse noted that staff comment #12 asked the Board to make a determination regarding the need for outdoor recreation facilities. He made a motion that the Board grant conditional and final approval to the subdivision application with the staff recommendations and advisory comments and with a determination that there was no need for an outdoor recreational facility. Mr. Matzner seconded the motion. The motion was approved by a vote of 7-0.

#### **V. Pre-Application Conference**

Property Address: 575 Stone Cutters Way

Applicant: The Connor Group, LLP and VEDA

Zone: RIV/DCD

Consideration of construction of an approximately 23,000 s.f. two-story office building

Consultation with DRB on Section 204.B.2.c of Montpelier Zoning and Subdivision Regulations

Interested Parties: Rick DeWolfe, Fred Connor, Roland Tover

Mr. Zalinger recused himself from the discussion of this item.

Ms. Smith said that the Board had received a copy of an opinion from the applicant's attorney regarding section 204.B.2.c of the ordinance regarding parking requirements. Mr. O'Connell asked whether the Peralisk was part of the project. Mr. Tover said that the project was strictly for office use and that he understood the Peralisk was looking at other sites. He said that the applicants want to get some idea of whether the DRB concurs with their interpretation of the 204.B.2c. parking standard. Mr. Lindley said that he thought that the Board had previously discussed the parking issue. Mr. Tover said that prior discussions were for a parking structure at grade with a building over top of it. He said that the applicants want to lower the profile of the proposed building in order to fit in with the Riverfront District.

Mr. O'Connell asked where the Hunger Mountain Co-op parking ended in relation to the site. Mr. Connor said that there are four shared spaces and 14 of the spaces currently used by the Co-op are on the applicants' property. Mr. O'Connell said that he was concerned that the riverfront was turning into wall-to-wall parking lots. Mr. DeWolfe described the proposal for a parking lot extending from the Co-op lot with screening between the two lots. Mr. Cranse asked how the accessory parking was to be enclosed. Mr. Tover said that the design would be done after receiving the Board's opinion on the concept. Mr. Bresette asked whether the number of spaces shown on the sketch would meet the parking requirements. Mr. DeWolfe said that it would provide the exact number of spaces required for office use outside the CB-I district.

Mr. Lindley asked whether the cost of putting parking under the building would be prohibitive. Mr. Tover said that he would not say that it would be prohibitive. Mr. O'Connell asked how much of the lot would be covered with parking.

Mr. DeWolfe said that 40% would be covered by parking, but the parking would be enclosed with a wall or fence so that no more than 25% would be covered.

Mr. O'Connell expressed concern about the amount of land that would be occupied by parking. Mr. Cranse said that the requirement is that the parking be enclosed and incorporated into the design of the building. He said that it did not sound like the provision could be satisfied with a wall, fence or landscaping. Mr. Tover said that the parking would be designed as an extension of the building and screened so that it does not look like a parking lot. Mr. O'Connell

said that he believed that the applicants had a real challenge in showing compliance with the standard. Mr. Blakeman said that an office would need parking for the employees. Mr. O'Connell said that the issue was how the parking was provided, not whether it was needed. Mr. Lindley said that the City Council adopted the regulations and the DRB has to interpret them. He said that the section in question is very specific that the intent is to prevent the riverfront from turning into a parking lot. Ms. Smith said that the City's attorney had also provided an opinion. Mr. Lindley said that he thought that the Board should provide a written response. Mr. O'Connell said that an application should be submitted first. Mr. Cranse said that the Board should review the City Attorney's letter. Mr. Connor said that the initial question to the Board was simply whether a wall is a structure.

#### **VI. Public Hearing - Conditional Use Approval and Site Plan Review**

Property Address: 383 Sherwood Drive  
Applicant: Family Center of Washington County  
Property Owner: Montpelier Congregation of Jehovah's Witnesses, Inc.  
Zone: MDR  
Change of use of 3,700 s.f. building from a church to a community center on a 1 acre parcel  
Site improvements including parking alterations, drainage and landscaping.

#### **VII. Site Plan Review**

Property Address: Sherwood Drive  
Applicant: Family Center of Washington County  
Property Owner: Montpelier Congregation of Jehovah's Witnesses, Inc.  
Zone: MDR  
Construction of an 8,500 s.f. child care facility on a 9.2 acre parcel of undeveloped land including, but not limited to, development of a parking lot, landscaping, drainage, access and lighting.

Mr. Zalinger said that he understood that there had been an intervening appeal on the two matters above. Ms. Smith said that there was an appeal of the Administrative Officer's determination that these were the approvals and permits required. She said that the appeal was that the applications should be reviewed together as one project. She said that the appeal has been warned for the May 1, 2006 meeting.

Mr. O'Connell, Mr. Bresette and Mr. Cranse said that they did not think that the Board should proceed with the review until after the appeal is heard. Mr. Zalinger said that he thought that the Board should at least take a preliminary statement from the application describing the application. He said that the Board should also make a list of interested persons.

The following persons indicated that they wanted to be included in the list of interested parties:

Lee Lauber, of the Family Center of Washington County  
John Rahill, of Black River Design, architects for the applicant  
Robin and Mark Hersey, 151 Sherwood Drive  
Wally and Laura Farnum, 411 Sherwood Drive  
Joan Vancourt, 286 Sherwood Drive  
Jeff Howard, of 6 Pearl Street, for Joseph and Virginia Howard of 286 Berlin Street  
Innis Gidney  
Catherine Dent, 447 Sherwood Drive  
Caroline Scoppertone, 11 Foster Street

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Courtney Parento, 6 Center Street

Lee Lauber said that the application would allow the Family Center to relocate the childcare out of the basement where it is currently located at Vermont College. She noted that Montpelier's Master Plan identified childcare as being important to the city. She said that the changes will allow for 10 additional childcare spaces for a total of 56. Mr. O'Connell asked how many employees would be in the two buildings. Ms. Lauber said that the total number was 51, but many of those employees were part-time.

Mark Hersey asked whether additional expansions could be permitted in the future. Mr. Zalinger said that the Board would take note of that question and ask it later in the proceedings. Innis Gidney said that he had an issue with a property line dispute with the owner of the subject property, Norman Kelley. He said that the application should address Section 819.B. Ms. Smith said that section 506.C does not require that section to be addressed since it applies to new subdivisions. Mr. Zalinger said that property line disputes were not within the DRB's purview. Mr. Gidney asked whether a certified survey had been prepared. Mr. Rahill said that the plans were based on a survey that was previously submitted to the Board. Ms. Lauber said that the property was surveyed by a professional surveyor and that the applicant was relying on that survey.

Mr. Bresette said that he thought that the Board had heard enough for that night and that the next step was the appeal. A member of the audience asked whether other parties could be added as interested parties in the future. Mr. Zalinger said he could not answer that until the Board knows how the matter goes forward. He said that the hearing on the appeal will be held on May 1, 2006.

Mr. Lindley made a motion to continue the conditional use and site plan hearings until May 15, 2006. Mr. O'Connell seconded the motion. The motion was approved unanimously.

#### Adjournment

Mr. Bresette made a motion that the meeting be adjourned at 10:40. Mr. Lindley 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.