

**Montpelier Development Review Board**  
**September 5, 2006**  
**City Council Chambers, City Hall**

*Subject to Review and Approval*

**Present:** Philip Zalinger, Chair; Alan Blakeman; Roger Cranse; Ylian Snyder; Jack Lindley; Guy Teschmacher; and Jeremy Hoff.  
Staff: Stephanie Smith

**Call to Order:**

The meeting was called to order by Jack Lindley. There were no comments from the Chair. Mr. Hoff participated as an alternate throughout the meeting.

**Minutes:**

The minutes of the August 21, 2006 meeting are not published at this point.

**I. Design Review**

- Property Address: 13 Terrace Street  
Applicant: Ellen Fein
- o Renovation of barn
  - o DRC recommends approval with adjustments

Interested Party: Aaron Kyle

Mr. Lindley administered the oath to Aaron Kyle, who appeared before the Development Review Board and gave testimony regarding the application.

Ms. Smith said 13 Terrace Street is an application for the proposed replacement of a garage door with a metal door faced in wood and a transom window above the garage door opening; addition of one entry door covered by a 12:12 pitched roof overhang with brackets, and four double hung windows (where an existing sliding barn door is currently located). There is no proposal to change the use of the barn. This is what was proposed on the application for the Design Review Committee, and they added four awning windows on one side. If you are looking at the photographs that were provided, it is on the right hand side of the elevation of that building.

After the Design Review Committee meeting, staff received material clarifying the types of windows that were proposed be installed. These were larger than what the DRC reviewed. Staff recommends the DRB accept the clarifications with respect to the windows. The motion detector lights, which are spotlights, should be down-casting and shielded to prevent glare into neighboring properties.

Mr. Kyle said under the staff and advisory comments that the old driveway will be removed and replaced with gardens. Mr. Kyle said there was never any mention of that at the DRC. There is one garden in front of where the door is going to be that is going to be taken out and replaced with a walkway. It is going to be slate to match the existing walkway. There was at one time on a map in the file a driveway that went to the old sliding door, which has been gone for a long time. Mr. Smith said he ultimately needs access to the proposed garage door so the removal of the driveway would be pointless.

Mr. Kyle said he was in agreement with everything in the staff and advisory comments except for the statement about the driveway being replaced with gardens.

Mr. Blakeman moved approval for design review for 13 Terrace Street property as recommended by the Design Review Committee and staff comments, with the exception of the removal of the existing driveway. Roger Cranse seconded the motion. The motion was approved unanimously 6-0.

**II. Design Review Application – CB-II/DCD**

209, 215 and 221 Barre Street

Applicant: Central VT Land Trust

Owner: River Station Planned Community

Permit # 20060-123

Minor changes to existing permit pertaining to condo portion only including:

- o Changes to exterior material, colors and access door to mechanical and sprinkler rooms.
- o DRC recommends approval as submitted.

Interested Party: Robert Lukes, Central Vermont Land Trust

**Ylian Snyder recused herself from participating in this application.**

Mr. Lindley administered the oath to Robert Lukes who appeared before the Development Review Board and gave testimony pertinent to the application.

Ms. Smith deferred to the letter provided by Lynn Mansfield of Housing Vermont, which articulates all of the exterior alterations. The Board members had reviewed the letter. The Design Review Committee recommended approval as submitted.

Mr. Lukes said there are small changes based on costs, and for the most part are fairly minor. The proposed changes are to the condominiums currently under construction. .

Alan Blakeman moved approval of the application for design review of 209, 215 and 221 Barre Street as submitted and recommended by the DRC. Jeremy Hoff seconded the motion. The motion was approved unanimously 5-0.

**III. Public Hearing – Variance and Conditional Use – MDR**

16 Redstone Avenue

Applicant: Robert Herrick and Nancy Olivet

Owner: Robert Herrick and Nancy Olivet

Application # 20060-125

- o Construction of a 9' x 10' room, including a 4' x 6' mudroom and a 10' x 12' deck

Mr. Lindley administered the oath to applicants Robert Herrick and Nancy Olivet, who appeared before the Development Review Board and gave testimony to the application before the Board.

Ms. Smith this is a request for a side yard variance of 2 feet for the construction of a 4' x 6' mudroom and a 9' x 10' living room on the west side of a single family residence, and a rear yard variance of 5 feet for the construction of a 10' x 12' deck on the north side of an existing single family residence. This is pursuant to the June changes to the zoning regulations and still requires a variance for both dimensions. The City Council did approve the most recent changes. The application no longer requires conditional use review due to the zoning changes adopted by the City Council on 8/30/06.

Mr. Lindley said they have to apply the variance criteria. This lot was created in 1930, so it is well before the current zoning.

The variance is required because a 30 foot rear yard setback is required and a 10 foot side yard is required. The proposed application is within 25 feet of the rear property line and 8 feet of the side property line. The recently adopted zoning was created to try and reflect the development pattern in this area, but, unfortunately, this application would still require a variance, unless, of course, the applicant decided to remove 5 feet from the proposed rear deck and two feet from the mudroom on the side.

A Board member said the reason the applicant is requesting a variance is to construct a living situation to accommodate a person's physical needs. How does the deck relate to that? Mr. Herrick said it didn't. Since they were in the process of putting together an application for the variance, they decided to request the deck. It's a really nice spot for a deck. Ms. Olivet said it would be nice for their family member who has difficulty getting around to be able to go out onto the deck and enjoy the backyard.

Mr. Lindley said they would apply the variance criteria to the application.

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.*  
Mr. Lindley said it is safe to say that this lot predates the 1973 regulations and it is a rather strange lot with a downhill slope. Those are not conditions the applicant created.
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 applicant intends to use this as a single family home and expand the first floor to accommodate the physical needs of a family member; and this construction can not be completed with out the benefit of a variance.
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 Board concluded that the hardship relates to the applicant's lot shape 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.* This will continue to be a residential use in a residential neighborhood. The deck and mudroom will be used by the residents of the dwelling. There was no testimony from any neighbors to indicate that there would be any impairment of the use of adjacent properties. The proposed deck and residential addition 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 proposal represents the minimum variance that will afford relief for the construction of first floor living area to accommodate a family member with who has a difficult time getting around but provides for their independence.

6. *The variance will not result in the initiation of a nonconforming use of land.* Single-family use is a permitted use in the MDR district, and therefore conforms.

Roger Cranse moved approval of the request for a variance for 16 Redstone Avenue. Ylian Snyder seconded the motion. The motion was approved unanimously 6-0.

#### **IV. Subdivision – Sketch Plan Review – MDR**

11 Dewey Street

Applicants: Jeffrey Allen & Stephanie Lahar

- o Two-lot subdivision

Mr. Zalinger joined the Board as Chair, and said sketch plan review is very informal. There is no sworn testimony, but just an opportunity to receive feedback from the Development Review Board about the plan you are contemplating.

Ms. Smith said this is a sketch plan review for a two lot subdivision of an existing lot. The undeveloped lot is proposed to be ½ acre. The size of the developed lot is unknown, but appears to be larger than ½ acre. The setbacks appear to be met with the existing house and with the proposed building envelope. Mr. Zalinger said there is a building envelope in the newly proposed lot where a single family residence can be constructed in conformance with the zoning ordinance without the need for variances. Mr. Zalinger said if the DRB were to grant you a subdivision permit to create a lot upon which you were unable to construct a residence without a variance it would have been a predicament the applicant caused themselves and it would preclude us from granting a variance in the future.

Ms. Smith said as a point of clarification the plan shows a 30 foot setback, and the new regulations are 10 feet or to match the line of the existing buildings. Ms. Smith questioned whether there was a suitable area for the construction of a house. Mr. Allen said that there was a flat area as shown in the plans.

Mr. Zalinger said it is important that the building envelope you are foreseeing is buildable. There is no construction proposed for the lot and this is a sketch plan only. The Board could consider whether they would consider conditional and final review at this time. Combining conditional and final review condenses the process. He said if there were sufficient materials prepared for the Board for the next review, they could probably make a final decision at that time, which would save the applicant another month or six weeks. He told the applicant the next time they came back they would have to have documentation and plans which would be suitable for Board review.

Ms. Lahar inquired if it would be possible to have subdivision approval without building plans. Mr. Zalinger said they could issue approval. They would have to provide a mylar of a survey. The mylar would be recorded in the city land records to create the new lot. Ms. Smith said that would be the final step.

Mr. Zalinger thanked the applicants for coming in and told them that was their input from the DRB. The next time they appear before the Board it will be for conditional and final review.

Ms. Smith told the Board that the continuation of the public hearing for the Planned Development and Conditional Review for the Capital Heights Subdivision had been rescheduled until September 18<sup>th</sup>.

The Development Review Board discussed the Design Review and Site Plan Review of 41-45 Court Street. The applicant James Blouin didn't show up for the meeting. Ms. Smith said this is a shared drive with an adjacent property owner, and they are well aware of the issue of gravel draining into the street. The actual paving does not require a permit if there is no change in the amount of parking area. It is the expansion of the parking lot, and the concrete block retaining that is requiring the permit and board reviews.

Mr. Zalinger recommended they continue the discussion of this application at their next regularly scheduled meeting. Jack Lindley moved that the Board table this application until the next meeting. Jeremy Hoff seconded the motion. The motion was approved unanimously 7-0.

**Adjournment:**

Roger Cranse moved adjournment of the meeting, which was seconded by Jeremy Hoff. The motion to adjourn the meeting was approved unanimously 7-0

**Respectfully submitted,**

**Stephanie Smith**  
**Administrative Officer**

**Transcribed and Prepared by:**  
**Joan Clack,**  
**City Clerk & Treasurer's Office**

*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.*