

**Montpelier Development Review Board**  
**September 18, 2006**  
**City Council Chambers, City Hall**

*Subject to Review and Approval*

**Present:** Kevin O'Connell, Vice Chair; Alan Blakeman; Roger Cranse; Ylian Snyder; Jack Lindley; Guy Teschmacher; and Jeremy Hoff.  
Stephanie Smith, Staff.

**Call to Order:**

The meeting was called to order by Mr. O'Connell, Vice Chair.

**Minutes:**

Mr. Lindley moved approval of the September 5<sup>th</sup> minutes, with Mr. Blakeman seconding the motion. Mr. Cranse said on page 3, the second paragraph, where it says a board member said the reason for the applicant requesting a variance should be noted that he was the one speaking. The motion to accept the September 5<sup>th</sup> Development Review Board minutes was approved 6-0. Mr. O'Connell abstained as he was not present at the September 5<sup>th</sup> meeting.

Mr. Lindley moved approval of the August 21<sup>st</sup> minutes, with Mr. Cranse seconding the motion. The motion to accept the August 21<sup>st</sup> Development Review Board minutes was approved 6-0. Ylian Snyder abstained.

**Comments from the Chair:**

The first three items on the agenda is the Consent Agenda. These are items which have been reviewed by Planning staff and are considered to be pro forma proposals. Unless there is a member of the public or a member of the Board who wishes to make a comment or investigate further, he said he would recommend they could approve the entire consent agenda all at once.

**I. Design Review for Sign Permit Application – CB-II/DCD**

147 State Street

Applicant: Century 21 – Jack Associates

- 24" x 36" ground sign
- DRC recommends approval with adjustments

**II. Design Review – CB-II/DCD**

127 Elm Street

Applicant: Benjamin & Yvonne Wall

- Addition of dormer
- DRC recommends approval as submitted

**III. Design Review – CB-II/DCD**

104-108 Elm Street

Applicant: City of Montpelier

- Installation of a 5' high black vinyl coated chain link fence
- DRC recommends approval as submitted

Ms. Snyder moved approval, with Mr. Cranse seconding the motion, of the Design Review applications for 147 State Street, 127 Elm Street, and 104-108 Elm Street as reviewed and recommended by the Design Review Committee. The Consent Agenda was approved 7-0.

**IV. Public Hearing – Variance – Conditional Use & Design Review – OP/DCD**

1 National Life Drive

Applicant: KJK Wireless for Clearwire LLC

- Addition of three panel antennas, 2 microwave antennas, one equipment cabinet and associated equipment
- DRC recommends approval with adjustments

Interested Parties: Bob Gashlin and Ed Flanagan

Ms. Smith said this application is warned as a public hearing. It is a public hearing because the applicant is seeking a variance and conditional use review. Mr. O’Connell administered the oath to Bob Gashlin and Ed Flanagan to testify before the Board.

Ed Flanagan, Silver Bow Communications, appeared on behalf of National Life. He said he is working with National Life primarily with helping them with their wireless providers who rent space on their rooftop. Clearwire is a wireless internet company. They are proposing to put three additional antennas on the north roof. There are right now about 20 conditional antennas on the roof. The panels are 2’ x 3’, built on metal poles that are approximately 7 feet tall.

Mr. O’Connell inquired of Ms. Smith why the DRB is required to approve a variance and conditional use for the application. Ms. Smith said the permitted height for buildings in the district is five stories. The existing building is six stories, so it already exceeds it. Because it exceeds it, the regulations require that the applicant go through the variance process. Mr. O’Connell asked if it was going to be visible. Ms. Smith said it will be visible from a few public areas. Mr. Cranse inquired whether it was for the building itself or just the antenna. Ms. Smith said the variance from height maximums is for the antenna. The proposed antennas won’t be any taller than the existing elevator tower on the building.

Mr. Cranse asked to Mr. Flanagan who represents KJK and Clearwire. Mr. Cranse asked who Mr. Flanagan worked for. Mr. Flanagan said his company is Silver Bow Communications and he works for National Life. Silver Bow Communications has expertise in wireless communications so he helps National Life with the myriad of areas where they want to use this technology. Bob Gashlin said he is with KJK Wireless and they represent Clearwire LLC. Ms. Smith told the Board she was satisfied the applicants were represented.

Mr. O’Connell inquired what the relationship is to Montpelier Net and Vermont Broadband. Mr. Flanagan said Montpelier Net uses the National Life Group for one of their sites, also. There is no connection except they propose to use the same location.

Mr. Lindley asked what the maximum output of the site at National Life is. There are 23 antennas, plus the three being requested tonight. Can you get 40 more up there? How many times do they need to come back for a variance? Mr. Flanagan said the maximum use has to do with the number of frequencies that are being used up there so they don’t interfere with each other. It is unlimited to the point where there is only an affixed amount of frequencies. Ms. Smith asked if an analysis had been done regarding this. There are an infinite number of frequencies, but there are physical space requirements. Physical space would be the limiting factor. Mr. Flanagan said physical space could go either vertically or horizontally. What has happened presently on the rooftop is that everything is horizontal.

The Board reviewed the Variance and Conditional Use Criteria.

**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.* This is not applicable to this project. It is because of the structure itself. It is not because of the lot but because of the building structure. Mr. Cranse said the criteria say there are unique physical circumstances or conditions peculiar, but it doesn't include everything possible. He said he thinks it is possible in this circumstance that the building itself is a physical circumstance. Mr. O'Connell said they should make note of that. Mr. Flanagan said the antenna is going on the north building, which is the newer structure.
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.* This doesn't apply to this application. The structure is the unique circumstance. Mr. Cranse said it is a reasonable use. It can't be done otherwise without building a new tower.
  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.* Non applicable.
  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 is true because it is going to add three additional antennas and two microwave antennas.
  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.* Not applicable.
  6. *The variance will not result in the initiation of a nonconforming use of land.* That is true.

Mr. O'Connell said they could vote on the variance now or vote on both the variance and conditional use together. The Board reviewed the Conditional Use Criteria. Ms. Smith said staff has made some findings with respect to conditional use criteria. The Board can either accept those few or make their own findings, and there is a couple she highlighted to be determined by the Board.

Mr. O'Connell said the Board needs to find that the following conditions are not adversely affected.

**Conditional Use Criteria:**

1. *Capacity of existing or planned community facilities.* Clearly, no adverse impact is expected with the addition of the antenna.
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].* Mr. O'Connell said he is assuming these antennae don't emit any noise.
    - ii. *Emit odor which is offensive at property line [814].* They don't emit any odor.
    - iii. *Emit dust or dirt at the property line [814].* They don't emit any dust or dirt.
    - iv. *Emit smoke in excess of Ringman Chart no. 2 [814].* There is no smoke emitted.

- 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. They don't emit any noxious gasses.*
- vi. *Cause fire, explosion, or safety hazard, or create electrical interference [814].*  
There is no light associated with the antennae.
- b. *The site plan review standards and approval conditions in 506.C, excluding uses exempt from site plan review [504].* There are no expected impacts to the site plan criteria.
- c. *Compatibility with existing and proposed development for the area [504].* A question someone might ask is what are the microwave emissions that might be associated with the antenna. Mr. Flanagan said it would be minimal because it is a wireless internet. They are not beyond the standards. These are licensed by the FCC (Federal Communications Commission.) Mr. O'Connell asked if the FCC did their own review. Mr. Flanagan replied yes. There are some wireless that are unlicensed, but this is licensed.
- d. *Cumulative impact of the proposed conditional use taken together with other conditional uses in the neighborhood. The noise generated per unit [504]*
- e. *The traffic generated per unit [504]:* This is not applicable. There is no traffic associated with the application.
- f. *The noise generated per unit [504]:* No adverse impact is expected. There is no noise.
- g. *Any factors judged to have an adverse impact on the area [504]:* There is no adverse impact.
- h. *The cumulative impact of the proposed conditional use taken together with other conditional uses in the neighborhood [504]:* The other neighborhood presumably is the other antennas, and they are already co-located on the roof.
- 3. *Traffic on roads and highways in the vicinity.* There is no additional traffic.
- 4. *The zoning and Subdivision Regulations in effect [504].* It has no affect on the zoning regulations.
- 5. *Provisions to protect the utilization of renewable energy resources [504].* No adverse impact is expected.

Mr. Cranse moved approval of the application for 1 National Life Drive for a variance, conditional use and design review for KJK Wireless for Clearwire LLC. Mr. Blakeman seconded the motion. Mr. O'Connell said he would note that the application is for approval as submitted by the Design Review Committee. The motion for granting a variance, conditional use and design review for KJK Wireless to install 3 panel antennas and 2 microwave dishes at 1 National Life Drive was approved 7-0.

#### **V. Public Hearing – Conditional Use – IND**

5 Home Farm Way  
Applicant: Two Rivers Food Works  
Owner: Two Rivers Food Works  
Interested Party: Martin Kemple

Mr. O'Connell said this is a request for the construction of a proposed 25' diameter yurt on what is an agricultural use/cultural facility. The applicant currently holds classes on the property for school aged children, but wishes to have a permanent indoor covered facility in which to hold the classes. There is no proposed increase in the number of classes with the construction of the yurt beyond what is currently being held there today. They are outdoor classes right now.

Mr. O'Connell administered the oath to Martin Kemple. Mr. O'Connell asked Mr. Kemple to introduce himself to the Board and brief them on what he would like to do with this application.

Martin Kemple, Co-Founder and Co-Director of a Montpelier nonprofit education company called Food Works at Two Rivers Center appeared before the Board. In 2001, they purchased the farm that is next to the old armory and Agway by the now Cabot Creamery offices. It is a historic farm that was originally owned by Colonel Jacob Davis. They purchased it with the intention of restoring it into an educational farm. In 2001, they started to farm it and run summer camps for children on farming, gardening, nutrition education and medicinal herbs. They have been holding their programs outdoors in a tent. The buildings on the property are not in use right now. They are in disrepair. It is an 1836 farmhouse that had been occupied up until the mid 1990's. They are now in the process of undertaking a capital campaign to raise money to restore the farmhouse, a back house and a barn to locate their offices and have a museum. The Montpelier Historical Society perhaps would be located there for exhibiting. They hope to have a teaching kitchen and a visiting center for out-of-state visitors and local people to come and learn about the agricultural history and farming practices in Central Vermont.

The buildings will not be put into use for at least a year until they can adequately raise the funds. They are requesting that they put up a structure called a yurt. They are circular in nature and 25 foot in diameter. It is made out of canvass. It will be on sono tubes so it will be considered a permanent structure. It will be in the location where the tents are, which is basically 20 feet from the fence of Cabot Creamery. They are hoping to be able to put the yurt up in order to accommodate their summer programs.

Mr. O'Connell asked if this really would be a permanent structure. After their rehab the old farmhouse, will it be coming down, or will they find another use for it at that time? Mr. Kemple said they expect to continue to use it after the farmhouse is finished. Yurts are long lasting structures and you might have to replace the canvass once every ten years, but they can be used all year round. Mr. Kemple said that is correct.

Mr. Blakeman asked Mr. Kemple if the yurt is coming from Mongolia. Mr. Kemple said it will come from the Oregon Coast. There is a company out there manufactures these. They have perfected them for northern climates in the western hemisphere.

Mr. O'Connell asked if it had an insulating layer of any sort or just the canvass. Mr. Kemple said there is a slight insulating layer. There will be a stove on the side. Mr. O'Connell said they are very efficient spaces. Once you see the inside of these things you'll see it has a lot more going for it than an average tent. Mr. Kemple said in northern California yurts are used for year-round living structures for families. Mr. Blakeman said that in Mongolia, which has, like Minnesota, instant blizzard weather, they use them all of the time.

A board member inquired how tall they were. Ms. Smith said the permit application says 12 feet.

Mr. O'Connell inquired of Mr. Kemple how long they have had control of the Two Rivers Farm property. Mr. Kemple said since March 2001. When they started working on the farmhouse they knew it was going to be a major project. They wanted to get some work done on it just to get a little sweat equity into it. It is going to be basically a \$1.8 million reconstruction effort for the farmhouse, the back house and the barn, jacking it up, pouring a new foundation, having the cellar restored, and then reframing the first floor, second floor and the roof. They have received funding from the State of Vermont, the Department of Historic Preservation, and lots of private donors. They have raised \$800,000 so far. They are planning a second barn with a greenhouse further down the road to be a general store selling Vermont made food products with a local café selling local products. This is another \$920,000. Together, it is a \$2.8 million capital campaign of which they have raised \$800,000.

Mr. O'Connell said they could review the conditional use criteria. Ms. Smith said staff made assumptions on the 25 foot diameter yurt and whether it would have any adverse impacts under the conditional use criteria. She said all of them said no adverse impact. Mr. O'Connell told Mr. Kemple the Board has to find the following conditional criteria is not adversely impacted.

**Conditional Use Criteria:**

1. *Capacity of existing or planned community facilities.* It doesn't appear there will be any adverse impact. What you are doing is supplanting an existing use of tents with a somewhat sturdier structure, a 25 foot diameter yurt.
2. *Character of the area affected.* This is an educational center and this will be used as a classroom for children ages 5-15.
  - a. *Performance standards in 814*
3. *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].*
4. *Emit odor which is offensive at property line [814].* Mr. O'Connell asked Mr. Kemple if the wood stove they were installing would meet all of the current emission standards. Mr. Kemple said he had spoken with Glenn Moore, the Building Inspector. Mr. Moore and him still need to work out those specifications to make sure they are compatible with the Fire Codes. Ms. Smith said this application was reviewed by the Technical Review Committee. She said she didn't remember that there was a requirement for the yurt to be sprinkled. Ultimately, Glenn Moore will make that determination. Mr. Kemple said they did put in an extra egress as a second exist which isn't normally required in a yurt.
5. *Emit dust or dirt at the property line [814]*
6. *Emit smoke in excess of Ringmann Chart no. 2 [814].*
7. *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*
8. *Cause fire, explosion, or safety hazard, or create electrical interference [814]*
  - a. *Site plan review standards in 506.C.*
  - b. *Hours of operation.*
  - c. *Cumulative impact of the proposed conditional use taken together with other conditional uses in the neighborhood.*
  - d. *The noise generated per unit [504]*
  - e. *Any factors judged to have an adverse impact on the area [504]*
  - f. *The cumulative impact of the proposed conditional use taken together with other conditional uses in the neighborhood [504]*
9. *Traffic on roads and highways in the vicinity.*
10. *The zoning and Subdivision Regulations in effect [504].*
11. *Provisions to protect the utilization of renewable energy resources [504].*

**Site Plan Review Criteria:**

6. *Parking [705]:* Currently, no parking is shown on the plans, but due to the fact that the services are not proposed to increase with the construction of the yurt staff recommends this not be addressed at this time. If in the future the use is expanded to offer more classes or occupies the main farm house, staff recommends the applicant return for review.

Mr. O'Connell asked if Mr. Kemple was aware that he still needs to obtain flood plain approval. Mr. Kemple said he was. Ms. Smith said it would be covered under the accessory structure provision for the flood plain section of the ordinance.

**Staff and Advisory Comments:**

1. Staff recommends that the Board request the applicant return to address site plan and conditional use issues at a time when either use is expanded, or the main house is occupied by Food Works.
2. Staff recommends that the applicant receive Flood Plain approval prior to issuance of the zoning permit.

Mr. O'Connell asked Mr. Kemple where he sees his organization being in five years in terms of intensity of use and the kinds of programs they will be offering. Mr. Kemple showed the Board pictures of what the farm house would look like. Down at the bottom is a farm house of two years ago. Another picture showed the farm house in 1900 with the railroad. The bike path will be going down one side of the farm house. The plan is to have an up-to-date barn with a green house. Down the road they would like to have it be a high profile visitor center, like the Capitol, Morse Farm and Food Works. It would be a place for people to come and learn about the agricultural history of the area, Montpelier's history, and other historical societies will be invited. There will be educational programs for children and adults.

Food Works is now active in most of the schools within a 15-mile radius, the U-32 School District and the Montpelier School District doing programs from healthy snacks, teaching food service personnel to buy local, etc. They are looking to grow those programs in the years ahead. They are looking for a significant presence there down the road. They are still keeping the capital campaign silent until they have more money raised before they can go public.

Mr. O'Connell said the Board had reviewed the Site Plan and Conditional Use Criteria. Mr. Blakeman moved site plan and conditional use approval for the construction of a yurt at 5 Home Way by Two Rivers Food Works, and also include staff recommendations with the Board's approval. Ylian Snyder seconded the motion. The motion was approved unanimously.

**VI. Continuation of Public Hearing: Planned Development – Conditional Review for Subdivision – GB/MDR**

Capital Heights – Hebert Road/River Street

Applicant: Fecteau Residential, Inc.

- Development on two lots totaling 77.8 acres
- Phase 1 – one commercial lot, 28 condo units, 60 units of elderly housing
- Phase 2 – 29 single family and 46 condo units
- Phase 3 – 40 condo and 16 single family units
- **Applicant requested to be rescheduled**

Mr. O'Connell said the applicant has requested this application be rescheduled. Ms. Smith said at this point they are looking at the second meeting in October, which is October 16<sup>th</sup>. They have a deadline of October 3<sup>rd</sup> to submit information. If they do not meet that date, it will be moved to a later date. This is still an active application, just a continuation. There are no time limits and the public hearing is still open.

Mr. Cranse moved that the public hearing on conditional review for Capital Heights be continued until October 16, 2006. Mr. Teschmacher seconded the motion. The Board approved the continuation of the Capital Heights conditional review until October 16, 2006 by a vote of 7-0.

**VII. Site Plan Review – CB-II/DCD**

41-45 Court Street

Applicant: James Blouin

- Replacement of an existing wood and concrete retaining wall with concrete blocks, expansion of lot and paving of parking area
- **DRC recommends approval as submitted**
- **Applicant requested to be rescheduled to 10/02/06**

Ms. Smith said this application was continued at the last meeting. Mr. Blouin was not available at that or this meeting. He has requested to be continued until October 2<sup>nd</sup>.

Jack Lindley moved the Development Review Board continue the application for Site Plan Review of 41-45 Court Street until October 2, 2006. Ylian Snyder seconded the motion. The motion to continue site plan review for the 41-45 Court Street application submitted by James Blouin was voted favorably 7-0.

Mr. O'Connell said that concluded their regular agenda for the evening.

Ms. Smith pointed out to members of the Development Review Board they had copies of new zoning regulations on their desks. There is a cover sheet used during the public hearing process that references the old with the new regulations. She requested members hold on to their old regulations because they will be used during the review of the Capital Heights project. The next meeting of the Development Review Board is Monday, October 2<sup>nd</sup>.

**Adjournment:**

Jack Lindley moved adjournment of the meeting, with Jeremy Hoff seconding the motion. The meeting adjourned at 8:00 p.m.

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.*