

Montpelier Development Review Board
October 2, 2006
City Council Chambers, City Hall

Subject to Review and Approval

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

Call to Order:

The meeting was called to order by Mr. Zalinger.

Minutes:

Mr. Blakeman moved approval of the September 18, 2006 minutes. Mr. Lindley seconded the motion. The minutes of the Development Review Board meeting of September 18, 2006 were adopted 4-0. Mr. Zalinger did not act on approval of the minutes.

Comments from the Chair:

None.

I. Design Review – HDR/DCD

9-11 West Street

Applicant: Willey Construction, Inc.

- Replacement of retaining wall with pre-cast concrete block
- **DRC recommends approval with adjustments**

Interested Party: Phil Willey

Mr. Zalinger asked Mr. Willey was familiar with the suggested changes of the Design Review Committee. He also asked him if he was in agreement with the suggested changes. Mr. Willey said he was. Mr. Zalinger said when applicants are in agreement with the suggestions made by the Design Review Committee, the Board proceeds to vote on the application.

Mr. Lindley moved the approval of the Design Review for 9-11 West Street with the DRC recommendations. Mr. Blakeman seconded the motion. The application for Willey Construction was approved unanimously 5-0.

II. Design Review – HDR/DCD

4 Witt Place

Applicant: Jon Anderson

- Raise porch railing from 25" to 42"
- Installation of standing seam metal roof
- **DRC recommends approval as submitted**

Mr. Zalinger said it appears that the Design Review Committee recommended approval of the application as submitted. Mr. Zalinger inquired if there were questions or comments from the Board.

Mr. Blakeman moved approval for Design Review of the application for 4 Witt Place. Mr. Lindley seconded the motion. The application for 4 Witt Place was approved unanimously 5-0.

III. Design Review – CB-II/DCD

132 Main Street

Applicant: Vermont Program for Quality in Healthcare, Inc.

- Remove existing porch and steps. Replace door with siding to enclose and paint to match existing colors.

- **DRC recommends approval with adjustments**

Interested Party: Leah Fournier

Ms. Smith said this is an application to remove a doorway. Removal of a doorway requires site plan review. There isn't a site plan, but there are pictures that depict the location of the door. It is not a means of egress. Mr. Zalinger said he could see why there would be site plan jurisdiction if there was change in circulation on the site, but if it isn't employed for circulation purposes now it isn't appropriate. Mr. Zalinger asked Board members if there was a problem with proceeding with just design review for the application. Leah Fournier said she is agreeable to recommendations made by the DRC.

Mr. Lindley moved approval of the Design Review for 132 Main Street, with the recommendations by the DRC. Mr. Hoff seconded the motion. The motion for Design Review for 132 Main Street was approved unanimously 5-0. Design Review is granted for the application.

Mr. Zalinger moved that the Development Review Board determined that there is not site plan review jurisdiction over this project because the change of an existing doorway that was not in use did not affect circulation. Mr. Lindley seconded the motion. The motion was approved 5-0.

IV. Request for Permit Extension – IND

One Home Farm Way

Applicant: Fred Connor, III

- Applicant requests two year extension for permit # 20040-137, issued on November 2, 2004.

Mr. Zalinger asked Fred Connor if he was looking for a one-time only extension for an additional twelve months. Mr. Connor said he had originally requested two years. He understands from the staff report that the Board can consider an extension longer than a year related to state and federal regulations. The state finalized the stormwater regulations a couple of weeks ago. There will be other permitting requirements involved. They would like the flexibility of having the permit for two years.

Mr. Zalinger read the section of the ordinance that allows the DRB to allow an extension more than twelve months. It is page 2-6, 205.H.4:

205.H.4. If construction has not commenced due to a delay in acquiring required State or Federal permits, the Board may make the one-time extension of the site plan approval for a period longer than 12 months if the applicant can demonstrate to the satisfaction of the Board that the State permits are being actively pursued and there is reason to believe such permits may be granted.

Mr. Connor said the permit was originally granted for the conversion of the old Army Reserve building into office space and for an expanded parking area in the back. Mr. Zalinger inquired if there were any federal permits required, and Mr. Connor said not that he was aware of.

Mr. Hoff asked if the work could be completed in a year if that was the only extension the Board granted. Mr. Connor said the Connor Group is the owners of the property and Cabot Creamery is the tenant. They have not requested that they begin the project. They had the project permitted at Cabot's request. The Connor Group would like the flexibility to undertake the project if conditions warrant it. The permit expires this November.

Mr. Zalinger said it doesn't look like the Board has the authority to grant more than one extension. The Board can do it once for 12 months. If at the time it is requested the DRB can grant an extension for more than 12 months if those conditions are met. Mr. Lindley said since there aren't any existing state permits that are outstanding the Board can't go longer than 12 months. Mr. Zalinger said he understands that it may not be the most logical course of action to have Mr. Connor come back with the same permit application, but there is zoning law that says it is a snapshot permit and you assess the conditional use impacts on the project in November 2004.

The zoning ordinance says you take another snapshot two years later, and if the DRB is inclined, you can extend it for a year, and then the snapshot is no longer usable.

Mr. Zalinger said the Board could grant him an extension for a year. If your tenant desires to go forward again, the DRB will have to reassess the project. The Board can't grant a 24-month extension based upon the fact that there is no activity pending at this time.

Mr. Connor said it seems like a strange penalty to cut off a project because something didn't happen. Mr. Zalinger said conclusions that are drawn in the granting of zoning permits are based upon facts and circumstances as you find them in a certain period of time. If you don't act on them, facts and circumstances change. That is why this kind of provision is in a zoning ordinance. There are provisions in Act 250 permits for initiating work on projects for a period of time because the findings and conclusions that are drawn are based upon the world as you find them in 2004. It's not unfair for a zoning ordinance to assess or conclude that those facts and circumstances may change over 36 months.

Mr. Hoff moved that the Development Review Board grant an extension for the project at One Home Farm Way for a period of 12 months. Mr. Lindley seconded the motion. The vote on the motion was unanimously 5-0 for the extension of the permit.

V. Final Plat – GB

354 River Street

Applicant: Primax Properties, LLC

- Review of modified final plat, pursuant to 408.B.

Ms. Smith said this application is a correction to a final plat which was approved by the Development Review Board approved the plat on March 28, 2006 and it was recorded on March 29, 2006. There was a mistake on the recorded plat. The changes to the plans were highlighted. There was an assumption under the first plat that part of that land at the corner was a Montpelier city right-of-way. It is not, so on the second photocopy of the plat there is a dotted line that indicates the right-of-way. That is actually Fecteau land and not Montpelier right-of-way. It is a clarification of the plat. The clarification on the revised plat does not change the subdivision approval by the Board. The zoning regulations require that any changes to a filed and recorded plat must come to the DRB. No process is outlined.

Mr. Zalinger inquired if the ingress and egress to Route 302 was changing. Ms. Smith said it does shift, but that was approved as an administrative amendment and not brought before the Board. It did not change the approval granted by the Development Review Board.

Mr. Blakeman moved approval of the corrected final plat for 354 River Street. The motion was seconded by Mr. Hoff. The motion was voted unanimously 5-0 to approve the application of the modified final plat.

VI. Hearing – Site Plan & Design 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**

Mr. Zalinger administered the oath to the applicant, James Blouin.

Ms. Smith said this application is for a Site Plan and Design Review for a proposed replacement of a wood and concrete retaining wall with a concrete block retaining wall, expansion of the parking area, and the paving of the existing gravel driveway with asphalt. The property is located at 41-45 Court Street.

Mr. Zalinger inquired of Mr. Blouin, where was the property line? Mr. Blouin said on the drawing which was submitted it shows the pin placement that separates him, Anthony Otis and the Vermont Bar Association at 130 foot marker. Mr. Zalinger said the photograph that shows the small tributary carrying gravel to Court Street is on the applicant's property. Mr. Zalinger asked Mr. Blouin if this project is part of a remedy to the gravel on Court Street. He said it was. He said last year Tom McArdle sent a letter saying the gravel was affecting the storm drain system of the city, and the option was to mitigate the gravel wash. All parties got together and agreed they would move forward with paving the shared driveway and parking areas. Mr. Zalinger said that in the long run it is probably the right solution. Mr. Blouin said he didn't disagree but wished he had three more weeks of construction time. He said they have a commitment from Johnson Paving to come and pave the week of October 23rd.

Mr. Zalinger asked about the concrete block he was going to use. Mr. Blouin said it is the same block that Vermont Mutual uses in their parking lot expansion project. They had used pressure treated ties, and instead of going back to the wood, which at the time, close to 20 years ago, was the most cost effective way to hold up the bank, rotted, they decided to use the block looks. They are 2' x 2' x 3' and have a textured surface. They are a significant upgrade over the plain concrete blocks.

Mr. Lindley inquired if paving over the parking lot will actually solve the problem of water coming down off of other parking lots. Mr. Blouin said there is a catch basin just up off the corner of the house which is connected to the city storm system. About four years ago they located this drain. All of this water shouldn't have to come down.

Mr. Lindley moved the approval of the Site Plan and Design Review for 41-45 Court Street with the following conditions: a new site plan will be sent to the Planning Office showing the location of the catch basin and the continuation of the existing parking spot at the rear of the Blouin building. Guy Teschmacher seconded the motion. The motion was approved unanimously 5-0.

VII. Design Review – HDR/DCD

162 Main Street

Applicant: Franklin Square Homeowners Association

- Exterior insulation of foundation
- **Applicant requested postponement to October 16, 2006.**

Ms. Smith said 162 Main Street had requested their application be postponed until October 16th.

Adjournment:

Alan Blakeman moved adjournment, with Jack Lindley seconding the motion. The meeting was 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.