

**Montpelier Development Review Board**  
**January 2, 2007**  
**City Council Chambers, City Hall**

*Subject to Review and Approval*

**Present:** Philip Zalinger, Chair; Kevin O'Connell, Vice Chair; Alan Blakeman (arrived during discussion of item II), Ylian Snyder, Roger Cranse, Guy Teschmacher, and Kevin Matzner, Jack Lindley (was present after the discussion of item II)  
Staff: Kathleen Swigon.

**Minutes:**

The approval of the December 18<sup>th</sup> minutes were postponed due to a lack of quorum of members who attended that meeting.

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

75 Main Street – No. 9 Boutique

Applicant: Alyson McHugh

- 2.3' x 17.5' wall sign within sign band

Mr. Zalinger asked the applicant if she was in agreement with the recommendations from the Design Review Committee. Ms. McHugh said their recommendations were acceptable to her.

Mr. O'Connell moved the approval of the application as proposed with the Design Review Committee's recommendations and the staff recommendation. Mr. Cranse seconded the motion. The application was approved unanimously 6-0.

**II. Design Review – CB-I/DCD**

104 East State Street

Applicants: Andrew and Elizabeth Boutin

- Replacement of windows and door, and removal of four trees.

Interested Parties: John Snell, Co-Chair of Montpelier Tree Board  
Sky Yardley, 1 Bingham Street.

Mr. Zalinger administered the oath to the applicant, Andrew Boutin, to present testimony to the Board.

Ms. Swigon told the Board this is a request for design review for the replacement of side porch windows and a door, and for the removal of four trees at 104 East State Street. The four trees are located in the city's right-of-way. Because of that the tree warden has to review any removals and determine whether a hearing is necessary for the Tree Board to approve the removal. The Design Review Committee has recommended approval with an option regarding the wooden door. The Tree Warden has determined that a hearing would be necessary in order for the tree in the city right-of-way to be removed. There is a recommendation by staff that if the DRB grants approval that the Tree Board's approval be gained prior to any cutting or removal of the tree within the city right-of-way.

Mr. Zalinger said he didn't know how the DRB has jurisdiction over the tree issue if the Tree Warden feels compelled to hold a hearing about the advisability of removing a tree. He said he didn't see any support in the ordinance for the DRB to start dealing with trees. Ms. Swigon said the DRB's jurisdiction is actually design review. Mr. O'Connell inquired if the design review included landscape elements. Ms. Swigon said the Design Review Committee did review the tree removal as a landscape element. While they were concerned about the trees, they did recommend. She said that the DRC recommendation for approval included an option that doesn't relate to the trees.

Mr. Zalinger said usually landscape elements are additions rather than deletions. He said he didn't feel the DRB should be involved with the Tree Warden's jurisdiction. He said he would be inclined to review the application on the design review components dealing with the windows and the doors.

Mr. Cranse asked if the Tree Board under another ordinance had to inform the owner that he couldn't take down the tree. Ms. Swigon said her understanding is that the tree is within the city's right-of-way and it is the city's tree. There is a separate ordinance relating to the Tree Board and the hearing process.

Mr. Boutin said his understanding of the zoning regulations as it pertains to the design review district he resides in that he needs a zoning permit to make any modifications to the landscape, which is the reason for the application. He said he is concerned about the liability aspect because the trees are the highest and most predominant feature on the hill. During wind storms he has had some significant branches fall out of the trees and damage the house. He has been informed by his insurance company that if there is a suspect tree they will not pay for damages to his structure.

Mr. Boutin said the Design Review Committee's recommendation is subject to approval by the Tree Board.

Mr. O'Connell said the Design Review Committee is an advisory board and has no legal authority. Their recommendations are acted upon by the Development Review Board and that would constitute a legal binding contract. Mr. Zalinger said the Design Review Committee has recommended that the four trees to be removed will be replaced with future trees.

John Snell, Co-Chair of the Tree Board, appeared before the DRB. He told the DRB that the Tree Warden has the legal jurisdiction because it is a tree in the public right-of-way that is still healthy. Any time the removal of such a tree is proposed there has to be a public hearing for it. In this case it deals with just the one tree near the curb and not the other three. He said in the past as a Tree Board they had been involved in advising the city on a number of tree additions and removals, even on private property, and certainly when it relates to a historic district or design review district involved. Their suggestion to Kathy Swigon was that all four trees are examined by a certified arborist and that be taken into account. Mr. Snell said there are a number of examples of trees like this that could live another 50 years easily. They are in great shape but never been maintained.

Mr. Cranse said Section 305.F.4 of the zoning and subdivision regulations review criteria for design review has the statement: "Compatibility of the proposed landscaping with the district." Therefore, it comes under the DRB's purview in terms of its compatibility with the district.

Mr. Zalinger said the landscape plan in its entirety is to remove the white pines and replant other trees there. Mr. Zalinger inquired if Mr. Boutin knew what he would replant. Mr. Boutin said he would plant something slower growing, such as maples or other hardwood. That would be three trees beside the house. Up next to the curb there is a fruit tree in very close proximity to the white pine tree. It doesn't make sense to replace that tree. Mr. Zalinger inquired if Mr. Boutin planned on removing the stumps during the removal of the trees. Mr. Boutin said yes.

Sky Yardley, a resident at 1 Bingham Street, said he lives in the property abutting the applicant. He is in favor of the proposal. There are many white pine trees on their property, and at some point they do die. They had two huge dead trees near their side. It is important to look at where those trees are in their life cycle. They also love the woods, and there are a lot of woods behind both houses. Another reason he looks kindly on this proposal is because the trees are affecting their solar hot water.

Mr. O'Connell said the change that he would like the DRB to see a landscape plan that would mitigate the negative aesthetics that would occur as a consequence of the tree removal. Mr. Zalinger said it is the applicant's testimony that they intend to replace the three trees that are on their property, not on the town right-of-way, with three replacement trees. He asked if the Board wanted to ask the applicant to submit a landscape plan of what is going to transpire once the pine trees are removed.

Mr. Cranse said it is a review criterion so they should ask the applicant to do that

Mr. Zalinger said the applicant could recommend a landscape plan that doesn't have the motivation of protecting his house. He said as a member of the DRB he is loathe to mandate people keeping and maintaining trees on their property. There are a lot of folks who have not had to prove to the DRB that their tree is diseased to justify being able to take it down on their property.

Mr. O'Connell said since this is a design review application Mr. Zalinger's suggestion is well taken. He would agree that the type of tree that is there is not as important as ensuring that there is a positive design plan of some form that would be compatible with the district.

Ms. Snyder said that the landscape plan will only show a little circle that says there is a tree in the same location as the other ones. She asked how that would provide more information than the applicant's testimony.

Mr. Snell said the trees are there with no one advocating for them on the part of the community. The Board is reviewing the design proposal because it is part of a community and it has an impact on the district. He personally doesn't see this as a lot different than putting on a bright red roof or changing a storm door. There are design considerations. He believes from his time on the Tree Board that the DRB is charged with reviewing landscaping additions or removals. He would suggest that the applicant also consider the possibility of keeping the trees and maintaining them as well as coming back to the Board with suggestions for other trees. The Tree Board's role is to serve as an advocate for the trees.

Mr. Zalinger said he understands it was within the purview of the Tree Board, but it wasn't the DRB and the Zoning Board interjecting its mandate on them. Mr. O'Connell said he would want to see a proposed plan that the Design Review Committee could also take a look at that meets the intent of the design review district. He would also like to see the Tree Board involved in examining the alternative proposal. Mr. Cranse said he is in favor of asking for a written plan from the applicant. Some more research on the part of the applicant and perhaps a conversation with the Tree Board would only enhance his plan.

Mr. Zalinger said if the applicant says he will plant three trees 15 feet high and 3.5 inches in diameter as part of his landscaping plan to replace the three white pine trees he is taking down, and he is going to do it in the next growing season, that would serve as a sufficient landscape plan.

Mr. Boutin said he had no problem with anything that was said, but he doesn't know enough about landscaping to know whether he can remove a trunk of tree and put a new tree directly on top of where that tree was located. It is his intention to replace the pine trees with similar sized hardwood trees, but they may have to go within a 10 foot radius just due to the root structure under the white pines.

Mr. Teschmacher said he is intrigued by Mr. Snell's mentioning the maintenance of the threes so they won't be a hazard. He wondered about how a plan of maintenance could be established. These are nice trees, and if they are healthy they are a big asset to the area. His preference would be to save the trees, but he doesn't think they should mandate it.

Mr. Blakeman said that he would not vote because he had arrived after the start of the discussion. He said he felt that the applicant should be able to remove the trees. He said that Mr. Boutin took the oath to give his testimony. He contacted his insurance company and they said if something isn't done with the trees they won't cover his structure. If he is forced to maintain the trees, that could cost him a small fortune.

Mr. Cranse said if the Board is asking for a formal plan he doesn't think they are necessarily saying we are prohibiting the applicant from legally using his land the way he can. The Tree Board is an important part of the community and they have spoken on the issue publicly. He doesn't think it will harm the application in any way, and it will probably make it a better application, if an arborist and the Tree Board is consulted before the Board makes its final approval. It doesn't mean we won't give approval. It just means the whole community will have participation in this issue. In the regulations this is a design control district and the application requires a landscaping plan.

Mr. O'Connell said the Board can ask for a written plan with the elements and the species, and the size and the visual impact defined.

Mr. Boutin said his plan was to cut down the trees in their entirety. It was the Design Review Committee who specifically asked if he would be willing to replace the trees. He said he would absolutely be willing to replace the trees and it has been in the plan. The time to cut white pines is in the winter or very early spring so he wanted to get that out of the way first. They said to replace them sometime in the future, and that is why no formal plan exists.

Mr. Zalinger said he is hearing very strong opinions from other Board members that they would like to see a landscape plan for what your scheme is after you have been granted permission to remove the three trees. Mr. Zalinger asked if he would be willing to go back and write a landscape plan to be submitted to the DRB.

Mr. Boutin said if that is the only way to receive approval he would do it. Mr. Zalinger said that unfortunately all they could do is continue this until their next regularly scheduled meeting.

Mr. O'Connell said he would recommend Mr. Boutin consult with an expert in this area so he would know what would be the most compatible species and how close you can plant them to the existing location of the current trees.

Mr. Boutin said he didn't really want to go down this path more than twice. Obviously, there is nothing that is going to replace a 70 foot 36 inch diameter white pine tree. He asked what would be appropriate for the Board. Mr. O'Connell said he could engage someone who is an expertise in the area of trees.

Vicki Lane said she didn't understand why the Board is giving Mr. Boutin such a hard time. At Vermont Mutual the Board approved them taking out two beautiful healthy trees. Why can't he remove three trees? Mr. Boutin said he was going to replace them with something and that was good enough for the Design Review Committee.

Mr. Zalinger asked if there were any comments about the windows and storm doors. The Design Review Committee approved this with the option that the door finish could be a clear coat. Mr. Boutin said he had no problem with the DRC's recommendation.

Mr. Zalinger asked if the applicant and the Board wanted to continue this application to the next regularly scheduled meeting for January 16<sup>th</sup>. Mr. Boutin said unless they could vote tonight that would be his intention.

Mr. O'Connell moved that the application for 104 East State Street be tabled until January 16<sup>th</sup> to give the applicant an opportunity to prepare and submit a landscape plan. Mr. Cranse seconded the motion. The results of the vote were as follows:

<u>Opposed</u>	<u>In Favor</u>	<u>Abstained</u>
Mr. Zalinger	Mr. O'Connell	Mr. Blakeman
Ms. Snyder	Mr. Cranse	
Mr. Matzner	Mr. Teschmacher	

Mr. Zalinger asked if there was another motion.

Ms. Snyder moved that the DRB approve the application as submitted with the DRC's recommendation that the door can either be painted or clear coated and that the trees being proposed to be removed by the applicant be replaced by hardwood trees of a minimum of 3 inch diameter and be placed within a reasonable location of the

existing white pines. Mr. Teschmacher seconded the motion. The results of the vote were as follows:

<u>Opposed</u>	<u>In Favor</u>	<u>Abstained</u>
Mr. O'Connell Mr. Cranse	Mr. Zalinger Mr. Matzner Mr. Teschmacher Ms. Snyder	Mr. Blakeman

The motion was approved.

**III. Design Review – CB-I/DCD**

32 School Street

Applicant: Dorothy Walka

- Replacement of windows with vinyl windows

The application has been continued to the January 16<sup>th</sup> DRB meeting.

**IV. Public Hearing on Combined Preliminary and Final Subdivision – MDR/OP**

Mountainview Street

Applicant: National Life

- Two-lot subdivision

Interested Parties: Shawn Bryan, Vice President of Facilities and General Services, National Life

Jack Lindley joined the Board for this discussion and Guy Teschmacher stepped down.

Ms. Swigon said this is an application for preliminary and final subdivision review for a two-lot subdivision. It will create a 2.51 acre lot and a large remainder that will be the balance of the National Life property. The applicant has indicated that the subdivision will create the lot with the intent of selling it to at least two neighbors who are in negotiations with National Life to acquire it as additions to their lots as open space. No development is proposed.

Mr. Zalinger said if you are going to create a subdivision that doesn't involve the creation of any new lots, if the new configurations are annexations to lands of other adjoining property owners so no new lots are created, we really don't have a subdivision. If the two annexed lots from National Life are annexed to and emerged with title to two other adjoining landowners, there are no more lots. Ms. Swigon said that is actually not happening in this situation. The lot would be held in ownership by two parties that are negotiating with National Life. She said one of the interested property owners does not have property adjoining so it couldn't be merged into his parcel.

Mr. O'Connell said he would note that the staff advisory comments state that any future development would require a separate application and zoning and subdivision approval. Mr. Zalinger said the prospects for sale in the future are not evidence. When the Board considers this tonight they have to consider it as a separate lot and may not in fact be purchased by anyone who lives in the neighborhood.

An adjoining property asked to see a copy of the application and map depicting the property lines described in the application.

Mr. Bryan said they appeared in August before the Board to review the sketch plan. At that time the neighbors expressed some interest and plans for the property. They subsequently met with the neighbors on several occasions, and at this point there is a verbal agreement that as soon as they get the subdivision permit approved that National Life will move ahead with the sale to the neighbors in that neighborhood. Their intent is to keep that property open to be used as recreational use by the neighborhood.

Mr. Lindley moved preliminary and final subdivision for a lot at the end of Mountainview Street with staff recommendations that further subdivision or development resulting in either of the lots will require a separate application consistent with the City of Montpelier Zoning and Subdivision Regulations. Mr. Cranse seconded the motion. The motion to approve the subdivision for the end of Mountainview Street by National Life was approved unanimously 7-0.

**V. Sketch Plan Review/Minor Planned Development – HDR**

208 Barre Street

Applicant: Central Vermont Community Land Trust

- Conversion of retail use to eight residential units

Interested Parties: Robert Leuchs, Central Vermont Community Land Trust;

Preston Tump, Central Vermont Community Land Trust

Donald Marsh, Marsh Engineering Services

Sara Halpine, 202 Barre Street

Ylian Snyder and Kenneth Matzner recused themselves from this agenda item.

Mr. Zalinger said sketch plan review is for informational purposes only.

Ms. Swigon said this is an application for a sketch plan review for the conversion of an existing building to eight housing units. Under the recent amendments to the zoning ordinance, this is also considered minor planned development review. The lots are in the HDR District. This is the building that is the auto parts store on Sibley Avenue and Barre Street.

Mr. Leuchs said the building is about 100 years old and was residential until the early 1970's. They plan to restore it to eight residential units. They are going to place the building on the National Historic Register. They are going to remove the front porch and provide some additional green space and leave the back of the property untouched. There is a back porch that will be taken down and rebuilt.

Mr. O'Connell asked about the structural integrity of the building. Mr. Leuchs said the structural integrity for the shell of the building is very good. They plan to gut the inside of the building, put on a new roof and install all new plumbing, electrical and heating systems.

Mr. O'Connell asked if the intention of the housing to be rental or condominium? Mr. Leuchs said seven units would serve as affordable housing and one at market. There will be six one-bedroom apartments and two two-bedroom apartments.

Mr. O'Connell asked how many parking spaces are required for the housing units. Mr. Leuchs said one space per unit for unobstructed parking and two spaces per unit for spaces with obstructed access. Parking space number 1 is crowded. Mr. Leuchs said the parking spaces are currently shown as 9 feet wide, but spaces 2-6 will be reduced to 8 ½ feet wide. Mr. Cranse asked how spaces 8 and 9 would work. Mr. Leuchs said 8 and 9 belong to the same unit. That will be a two-bedroom unit. Mr. O'Connell asked how people accessed parking spaces 8 and 9. Mr. Leuchs said there is an existing driveway there. Mr. Cranse said the staff report says they have to back onto Barre Street. He asked if there is any remedy for that. Barre Street is a busy street. Mr. Leuchs said that traditionally that is what has been happening. By removing the front porch area they hope to create green space. This will provide more visibility with the front removed.

Mr. Tump added that their experience with properties in town location is that statistically not all renters will have cars. The beauty of the location is that it is in a very well established location with lots of services. It probably will attract renters who don't have vehicles. Mr. O'Connell asked if they could tell them what their experience has been with the new development across the street in terms of traffic and circulation. Mr. Leuchs said they average one car per two bedrooms. The parking lot has plenty of empty spaces. The condos have access onto Barre and Granite Streets.

Mr. O'Connell said he has noticed there is very little space for children. He has noticed them playing in the parking lots. Mr. Preston said the majority of these apartments are one bedroom. Their experience has been it will mostly be couples and singles. There won't be many children.

Mr. Teschmacher said he is concerned about the handicapped parking space. It should be a space you can get into without being blocked. There is going to be a two-bedroom unit designated as handicapped accessible.

Ms. Swigon said this application hasn't been before the Technical Review Committee yet. Glenn Moore, who represents the Fire Department and Building Inspectors Office, did give her one comment. His comment was that with the renovations the building should meet the ADA building code which requires that the main entrance be accessible. This application will go to the Technical Review Committee for the next step.

Sara Halpine, the property owner next door to the proposed project, posed two questions to the applicant. She asked how many units did the building used to have. Mr. Leuchs said anywhere between 6 and 10. She asked where the snow removal for parking spaces 8 and 9 was going. Mr. Leuchs said the snow would probably be pushed into the front green areas and eventually trucked out.

Mr. O'Connell said it looks like a good project. He would be interested in the Technical Review Committee's thoughts on the parking and snow storage. Mr. Cranse said it looks very nice. The DRB thanked the Central Vermont Community Land Trust for their presentation on the application.

**VI. Site Plan Review – GB**

51 Berlin St.

Applicant: Damartin Quadros

- Creation of a drive-through lane, removal of two parking spaces and associated site changes

The applicant has asked to continue this agenda item for January 16<sup>th</sup>. Ms. Swigon said the applicant wanted to have his traffic expert available and there was a conflict with the date. The Planning Office received two pieces of information today from an adjoining property owner who has hired a traffic expert. The Technical Review Committee has reviewed this application and their conclusions are included in the staff recommendations.

**Adjournment:**

Mr. Blakeman moved adjournment of the DRB with Mr. O'Connell seconding the motion. The DRB adjourned at 8:40 p.m. with a unanimous vote.

Respectfully submitted,

Kathleen Swigon,  
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*