

Montpelier Development Review Board
May 21, 2007
City Council Chambers, City Hall

Subject to Review and Approval

Present: Philip Zalinger, Chair; Kevin O'Connell, Vice Chair; Roger Cranse, Alan Blakeman, and Guy Teschmacher
Leslie Ratley-Beach, Staff.

Call to Order:

Mr. Zalinger called the meeting to order at 7:00 p.m.

Review of May 7, 2007 Minutes:

Since there wasn't a quorum present, review and approval of the May 7, 2007 minutes was postponed until the next meeting.

Comments from the Chair:

None.

I. Design Review – HDR/DCD

186 Main Street

Applicant: Laura Peer

Replace exterior door with window.

The applicant appeared before the Design Review Committee, which recommended that the Development Review Board approve the application as submitted without change or alterations. Since the application was reviewed by the Design Review Committee, the DRB usually proceeds to consider the committee's recommendations as very strong evidence of the appropriateness of the project.

Mr. O'Connell said he agreed and moved approval of Design Review for 186 Main Street. Mr. Blakeman seconded the motion. The motion was voted favorably 5-0 and adopted.

II. Design Review – HDR/DCD

2 Cliff Street

Applicant: David Diamantis

Dormer addition on front of building, new window and balcony/fire escape on gable end, replace asphalt roof with standing seam metal roof.

The Design Review Committee recommended that the application be approved with several options and adjustments. Mr. Zalinger asked if the owner and Mr. Diamantis were in agreement with the recommendations suggested by the Design Review Committee. They said they agreed. The Board didn't hear any additional evidence on the application.

Mr. Blakeman moved approval of Design Review for the application for 2 Cliff Street with recommendations and adjustments suggested by the Design Review Committee. Mr. O'Connell seconded the motion. The motion was approved unanimously 5-0 and approval was granted.

III. Design Review – CB-II/DCD

149 Main Street

Applicant: O.M. Fisher Home (Gary Home)

Replace window sashes throughout the building.

Mr. Zalinger said the application consists of the replacement of window sashes with thermal pane divided light sashes. The Design Review Committee has recommended approval of the application as submitted. The Development Review Board will accept the recommendations submitted by the Design Review Committee without hearing further evidence.

Mr. Cranse moved approval of the application for Design Review at 149 Main Street. Mr. Teschmacher seconded the motion. The motion was approved 5-0. Design Review approval for 149 Main Street, the Gary Home, was approved.

IV. Design Review – HDR/DCD

7 Hubbard Street

Applicant: Jo-Ann Lowell

Additional of vinyl siding and replacement windows.

Mr. Zalinger administered the oath to the applicant, Jo-Ann Lowell.

Ms. Ratley-Beach said Ms. Lowell has replaced the windows in this home. The Design Review Committee did approve the window replacement since they are already in the home. What is presently before the Board is the vinyl siding on the clapboards. One of the things that troubled the committee is that there seems to be some evidence of some serious moisture problems. There were two fold concerns, that the vinyl siding wasn't consistent with the character of the neighborhood and that the vinyl siding might in fact accelerate deterioration of the building rather than preserving it because it will trap the moisture inside the building.

Mr. Zalinger said the Design Review Committee's recommendation states that the proposal does not show that the present historical clapboards will be preserved. There is a clear indication that moisture is migrating to the exterior and will worsen with encapsulation by vinyl.

Ms. Lowell said she had a report from a home inspector that says she has zero moisture in her home. The reason the committee said she had moisture was because there were some round holes on the outside of her house, which is from the blowing of insulation. She has a copy stating when the house was for sale by the owner that they had blown in insulation. She wasn't aware at the time that the blown in insulation needed to breathe.

She had Mr. Jordan come in to do a home inspection with a moisture gun. He stated she has no moisture at all in her house. He conducted the inspection last week when it rained. He said the vinyl siding will breathe and not cause further deterioration. His reported is dated May 20, 2007. Included in the report are pictures of her house and abutting houses. Her house abuts a vinyl sided house which was put on by the Lead Abatement Program. Staff checked with the VHCB lead abatement. They have no record of installing vinyl at the neighbor's house, and in fact do not use vinyl siding. She is also located in the Historical District. Regarding the interior of the house, Tri-State Basement came in and installed a dehumidifier and a sump pump. There is foam insulation on the walls, which improves moisture from getting into the house. She also brought in a report on vinyl siding and how it breathes. She offered this as her rebuttal statement to the Design Review Committee.

Mr. Zalinger inquired whether the materials were submitted to the Design Review Committee. Ms. Lowell said they told her she had a moisture problem so she obtained a home inspector to review the house. This is her third home inspection. They denied the application and she left. She came to the meeting tonight to appeal their decision. They didn't have any problem with the colors or the insulation. They told her she had moisture problems. She wanted to prove that she doesn't have a moisture problem.

Mr. O'Connell asked, considering their strong opinion about the vinyl siding, why wouldn't she just rather replace the existing wood clapboard with wood. Ms. Lowell said she thinks vinyl is more breathable and will last longer, and less costly. She has polled her neighbors and they agree that it will be okay. Her neighborhood has everything in it – aluminum, wood, vinyl and painted aluminum. After reading the report, it seems vinyl is the way to go.

Mr. O'Connell said there is an issue with her being located in the Design Review District, which is to maintain design integrity. She believes with this design the integrity of the neighborhood will be maintained. The house next to her looks wonderful, and it was done by the Lead Abatement Program. She did not qualify for the Lead Abatement Program because she has no children.

Mr. Zalinger said the Development Review Board is charged with enforcing the ordinance for the Design Review District. It isn't left up to a vote by the neighbors as to whether the application should be approved or not. The Board doesn't always agree with the Design Review Committee. Although it seems like this evening's agenda is indicative of the Board rubber stamping that happens at the committee level, sometimes when there is a dispute or a difference of opinion between the applicant and the Design Review Committee the Board is charged with making an independent decision.

His suggestion to the applicant is that she returns to the Design Review Committee with the evidence she presented to the Board tonight. The applicant is entitled to rebut the committee's conclusions with evidence of her own and raise the moisture issue with them. Customarily, the committee is more hands-on in the building trades and drawing conclusions about technical matters than the DRB so that is what happens at that level of review. If she returns to the DRC she will have the opportunity to challenge their contention that it is a moisture problem. Secondly, when he started the meeting he was concerned about the quorum because Vermont state law says that although we are a body of seven they can proceed with a quorum of five to make it a legal meeting. In order for a matter to be acted upon affirmatively it requires an affirmative vote of four from the actual number of members on the Board, which is the majority of seven rather than a majority of the five who are present tonight. That sets a rather high bar for the applicant. He suggested she appear before the DRC again and ask them to reconsider their decision.

Ms. Lowell said they didn't even visit her house and came to that conclusion, so she doesn't have much hope they will listen to her.

Mr. O'Connell said he is inclined to support the Design Review Committee in the Design Control District, so what Mr. Zalinger is outlining would be the prudent choice.

Mr. Zalinger said her choice would be whether she wants us to table the application for her to return to the Design Review Committee and then come back to the Board with a full board of seven members. Ms. Lowell said she would return to the Design Review Committee.

Mr. Zalinger said if Ms. Lowell isn't happy returning to the Design Review Committee the DRB can decide the matter tonight. Ms. Lowell said she would take her report to the Committee and come back to the Board.

Tim Bashaw, the contractor for Ms. Lowell, was administered the oath and appeared before the Board on behalf of the applicant, Ms. Lowell. He said he hadn't done any contracting work in the city of Montpelier. This is his first siding job, and he feels responsible for not applying for the permit to begin with. Finding out that her home was in a historical district was surprising to both the applicant and himself. He has the project well underway. He understands with vinyl siding and synthetic materials Board members frown upon, but at the Design Review Committee neither he nor the applicant had a chance to speak. Materials have come a long way and would go a long way to help this property.

Mr. Zalinger said Ms. Lowell is willing to return to the Design Review Committee, so it is up to the Board. He asked the Board if they wanted to table the application to permit the applicant to return to the Design Review Committee to submit additional evidence. Mr. Cranse said he agreed with the Chair's recommendation.

Mr. O'Connell moved to table the application for design review at 7 Hubbard Street until it can be reconsidered by the Design Review Committee. Mr. Blakeman seconded the motion. The motion was voted unanimously 5-0, and the application was tabled pending Ms. Lowell's return to the Design Review Committee.

V. **Sketch Plan Review of Planned Development – MDR/LDR**

4 Towne Hill Rd.

Applicant: Montpelier Co-housing

Construction of 16 unit condominium development

Interested Parties: Ken Matzner, Anne Campbell, Donald Marsh & Bill Macleay

Alan Blakeman recused himself from this item.

Mr. Zalinger explained what the scope of the Development Review Board's jurisdiction is with regard to sketch plan. There are three steps in the subdivision and planned development review process. Number one is sketch plan review, secondly is preliminary plan review, and then final plan review. Each step requires a separate application and action by the Development Review Board. Planned unit developments are distinguished by minor and major review standards. Public hearings are required prior to preliminary and final approval. The hearing must be warned in accordance with the ordinance. The Board may combine preliminary and final hearings and reviews if it determines that issues can be adequately addressed in one review stage.

The intent of sketch plan review is to provide the applicant an opportunity to consult with and to obtain feedback from the DRB to save time and expense in the preparation of plans for preliminary and final review. For larger complex subdivision projects the applicant is urged to meet informally with municipal representatives to discuss the project prior to submitting a request for sketch plan review. Representatives may include the Department of Public Works, the Director of Planning and Community Development, the zoning administrative officer, representatives from the Design Review Committee, Conservation Commission and Tree Warden, police and fire departments. The applicant is also urged to notify neighboring property owners to identify issues that may arise in subsequent public hearings and to seek resolution on any such issues.

Action by the DRB. Following review of the materials submitted at the sketch plan review, the Development Review Board shall make recommendations to guide the applicant in preparation of plans for preliminary planned review. The Board's recommendations shall be recorded in the minutes of the meeting and shall be provided to the applicant. Action by the Board on a sketch plan does not constitute approval of a subdivision but is merely authorization to proceed to the next step of review.

Preliminary Plan Review. The applicant may proceed to preliminary plan review within one year following sketch plan review by the DRB. The Board shall determine if preliminary and final hearings may be combined.

This is the essence of the Board's charge tonight. The applicant is here to submit the plan and to seek recommendations to guide it through the preparation of plans for preliminary planned review. The Board cannot customarily issue a written decision or determination in sketch plan review. They rely upon their minutes because there is no formal legal action that the DRB is charged with making under the zoning ordinance. Recommendations are just that.

It is apparent that there are a lot of folks who are interested in the outcome of this matter and learning more about it, or participating. The Board doesn't swear in witnesses at sketch plan review. This is not the type of adjudicatory hearing at which one obtains interested person status that is a legal right under the Vermont statutes to appeal. You have to participate and be an interested person and attend hearings in order to have appellate rights from any final decision the Board takes. Interested person status is not afforded to anyone at this point.

There are only four members of the Board present to hear the applicant's presentation. He may want to continue this and obtain the recommendations of a more expansive Board. Mr. O'Connell said he was in favor of proceeding with hearing the application out of respect of the large number who showed up tonight. Mr. Zalinger said he would recommend the applicant present their view for the project. Questions should follow the applicant's presentation.

Mr. Ken Matzner, Treasurer of Montpelier Co-housing, LLC, appeared before the Board to explain how they developed the plan. Montpelier Co-housing, LLC was organized two years ago in May. They are not experienced developers but a grassroots group who are concerned about the environment and want to develop a neighborhood with a sense of community. They formed their group two years ago and officially registered with the State of Vermont on April 22, 2005.

In response to an article in *The Bridge* more than a year ago a landowner approached Montpelier Co-housing, LLC and said this is exactly what they wanted to do with their land. They developed a general plan with no drawings. They contacted the neighbors, met with them and presented their general ideas about building 19 single family and duplex homes.

They subsequently developed a sketch plan based on the neighbors' feedback and scaled back to 16 units. They incorporated the feedback into the project description which articulates the changes they made.

Anne Campbell, project coordinator for the development proposal, also appeared before the Board. Working in collaboration with the Central Vermont Community Land Trust and the Vermont Housing and Conservation Board, Montpelier Co-housing proposes to develop 16 units, approximately 25 percent of which will be designated affordable on 9.8 acres on Easy Street in Montpelier. Some of the defining characteristics of co-housing includes preservation of open space, clustering housing in order to foster a sense of neighborhood community, parking on the periphery rather than at each house with pedestrian access to the homes, with homes facing a traditional village green, which also functions as a community gathering space, and a traditional community center type organization which is referred to as a common house. The center would include a meeting room, dining room and kitchen facility, mailroom, library and recreation room. They also aspire to meet criteria for designation as an eco-village, which would include the use of sustainable building materials, sustainable land use, and use of renewable resources for energy consumption. It is their hope to offer this development as a model for sustainable development for the future.

Mr. Bill Maclay, an architectural planner from Waitsfield, has been working on the development of the overall plan. He reviewed the proposed plan for the 9.8 acre property. The property is off Towne Hill Road. It borders Chestnut Hill, which has single family homes along the road. The property is almost 100 percent open and primarily wetlands. There are two areas that are not wetlands.

Mr. Maclay said they looked at in terms of the fields was a design approach of creating two farm house clusters. Their housing tends to be smaller than typical housing. There would be 6 units in a duplex in the back of the property. They are proposed to be bermed into the hillside to reduce the height of them so you would only see the roof. In between the houses there would be an area where they could have gardens and play space for children. There will be some additional tree planting, which is one of the concerns expressed by the neighbors. This would further soften the impact of the parking area.

Don Marsh, engineer for Montpelier Co-housing, LLC, appeared before the Board and said from a utilities point of view it is pretty straight forward. They would propose a private road. Easy Street currently is a driveway to the city's booster pump station. They would share a joint right-of-way with that road to the parcel. They would propose a private gravel parking within the project and would also like to keep the minimum width standards that the city requires. The municipal water would come from the booster pump station; sewer and storm water would be treated on site in accordance with a storm water discharge permit and then carried down along Easy Street to the existing discharge below Towne Hill. All of those utilities would run up the middle of the private road.

Mr. Marsh said in reviewing the staff report there are some language issues that could be cleaned up. It talks about sidewalks. They would be like to be consistent with co-housing mode which is to have pedestrian pathways and trails. It is intended to keep trails and paths within each cluster and between the clusters, but they be paths through a field and not a traditional sidewalk along the side of the road. Similarly, they would ask the Board to consider not requiring pavement on the street, that it is intended to be a more rural less intrusive project and not a typical subdivision.

Mr. Cranse said they emphasize “walk ability,” how would a person walk along the access road to get down to Towne Hill Road? Mr. Marsh said there would have to be a path beside Towne Hill Road that leads to Easy Street at the lower side. They are also exploring a potential off site path that would go from the project down to Main Street through adjoining properties, but that hasn’t been resolved. They would like that to be a gravel or stone path as opposed to a sidewalk. They do agree there should be a pedestrian connection to Towne Hill.

Ms. Ratley-Beach said the Technical Review Committee did review this project. Those comments are incorporated in the staff advisory comments.

Mr. Zalinger inquired if the other utilities were going to be underground, and Mr. Marsh replied they were. They represented that it would be a private gravel road, and they are hoping the language in the staff report in terms of city streets is referring to structural strength to support emergency vehicles and widths as opposed to surfacing. They will work with the Department of Public Works on that aspect. It is a very critical of the co-housing concept in terms of the use or resources and the overall perspective in using the development. They would be responsible for the maintenance and snow removal of roads.

Ms. Campbell said the legal structure for the development will be a condominium association which would assume responsibility. In addition, the neighbors have expressed concern about lighting. City street lights would not be compatible. What they discussed for lighting at the Technical Review meeting were solar lights which are covered from above. It would all be ground level lighting and shielded. Mr. Maclay said in terms of where the housing units are they will end up having porches with recessed lights underneath to provide safety. Where there is parking, they will either end up putting structures with lights underneath or low level lighting. They will provide minimal lighting for safety but not more than that. All of it will be shielded.

Mr. Teschmacher asked if the Fire Department had any concerns about the layout of the units. Ms. Ratley-Beach said the Fire Department’s concern was in the lower parking there should be more of a turnaround area for the ambulances. Mr. Marsh said they need to address some hammerheads for the ambulances to turn around in probably all three parking lots.

Mr. O’Connell said there is a secondary road directly across from the first cluster unit. What is that for? Mr. Marsh said that is for the pumping station.

Mr. Zalinger said the Board would entertain questions from the audience.

Christie Stern Bachfeist asked if there was any consideration made for wind energy. Mr. Matzner said there were no plans at this time. They are planning on solar energy.

Mr. Rome said someone was talking about definitions for wetlands. Someone said this is a grade 3 wetland. What is the significance of the answer to that question?

Mr. Marsh said he had never seen a class 1. Class 2 wetlands are typically mapped by a national wetlands inventory mapping system statewide, and those are almost any lake or pond. A class 2 wetland is what you would look at as a large standing water wetland that everybody would know was a wetland. Class 1 and 2 the Agency of Natural Resources has jurisdiction over those by state statute. Class 3 wetlands are all of the other wetlands generally less valuable. Those were never mapped. The state does not have specific wetlands jurisdiction over those. However, they are reviewed essentially through the same way through the Act 250 process. The Corps of Engineers has a rather obscure connection to a wetland like this in that it is based on the Clean Water Act, which is there some nexus to navigable water. In this case, Blanchard Brook, because it is connected to the Winooski River and the Winooski is connected to Lake Champlain, makes it navigable water. We are within 500 feet so the Corps of Engineers exerts jurisdiction on any of those wetlands, so there is a permitting process with them. The Agency of Natural Resources on a class 2 wetland requires buffers. The Corps of Engineers, although more expansive in their jurisdiction, does not require buffers. These are class 3 wetlands. Really, it is a side hill wet meadow.

Mr. Rome said you have this land as it sits now. Is there any affect of this kind of development on the flow of water or drainage? Mr. Marsh said the wetlands impact is going to be minimal. The other drainage issues will be more addressed in the site design and in the storm water discharge permits so they aren't sending water onto neighbors' properties or increasing the velocity which water departs. All of that is addressed in the storm water discharge permit.

Mr. O'Connell asked if because it was less than 10 acres they have to go through Act 250. Mr. Marsh said it is more than 10 units. Ten or more housing units has Act 250 jurisdiction in Montpelier. They will have to go through the Act 250 review as well.

A neighbor said they minimized the view impact. How do they define the view? Mr. Macleay said the area is primarily wooded.

A neighbor asked if they were going to need a Corps of Engineers permit. Mr. Marsh said they would obtain authorization under what is called a general permit with the Corps of Engineers. He asked what they estimated the impacts to the wetlands would be. Mr. Marsh said they suspect under an acre.

Mr. Maclay said in the middle of the field it is currently approved for a bed and breakfast, which was approved a few years ago. This project would supersede that existing permitted use. Mr. Matzner said it would also use up less of the wetland than the previous proposal.

A neighbor asked why is there no easement on the back side of the field which does affect some property owners that the easement is just along the Chestnut Hill side. Given that the applicants have admitted that they are not experienced developers, how can the neighborhood, which obviously has a vested interest, be protected from potential financial insolvency of a limited liability corporation and be left with a half built project?

Mr. Maclay replied that there are hundreds of co-housing projects which have been done around the world, so it is a format that has been well proven in terms of development. Anne and Ken, like most of the others, hired development consultants to work with them, so they have been working with the Central Vermont Community Land Trust who does projects in this part of the state to work with them in terms of developing this project. That is the model which most co-housing projects have worked with. There have been co-housing projects done in cities, high rise buildings, quarter acre lots and hundreds of acre parcels.

Emily Gould, a resident of College Street, said she had a question for the Development Review Board. What is the Development Review Board's views with affordable housing and housing in Montpelier, and what actions has the DRB taken to insure affordable housing for people moving into Montpelier? Does this application fit the model of what the DRB is looking for in development for Montpelier over the next 20 years?

Mr. Zalinger said the Board doesn't have a position. The Development Review Board is a statutory body that is authorized to respond to applications. They don't initiate activity. They don't design projects. The Development Review Board is a quasi-judicial body that hears evidence and testimony and makes a decision under the zoning ordinance.

Ms. Campbell said one of the goals of the project is for inclusionary development and diverse housing.

A neighbor asked how cluster housing could be considered compatible in a neighborhood of single family homes. Mr. Maclay said there is a neighborhood of single family detached houses. There is also an open field and woodlands so it has a pattern of openness.

Mr. Gross asked what their rationale was for starting off with a design that doesn't meet the setback requirements, and why did they select the number of units they did?

Ms. Campbell said the rationale is the planned unit development allowances that would permit them to develop a

co-housing project according to the criteria and be within the upland delineation. Mr. Macleay said their project is creating a neighborhood with a critical mass of people, so they looked at 16 units as being the smallest number. Their preference was for a larger number. In terms of that site, given both wetlands and also neighborhood concerns, to be looking at 23 or more units on the site was something that didn't seem appropriate in terms of that area. Their goals are not to be an exclusive and expensive place for people to live, but in fact be a place where more regular people can live and actually have some component of what they are doing that is affordably focused. Once you do that you have to look at the number of units in terms of how you can spread the costs. Otherwise, it becomes very expensive.

Mr. Zalinger asked the applicant what point in the process do they believe they will create elevations from which folks could assess the appearance of the buildings. Ms. Campbell said she believed it would be before the preliminary review. He said it would be a tough preliminary review hearing without elevations, and it would be very hard for the Board to assess it.

Mr. Cranse said when they return for the next phase of review he would like to hear convincing testimony about the reasons for the setbacks. Ms. Campbell said you can see on the site map the lines delineating the wetlands, so the development really needs to fall within that area.

Mr. Zalinger said the applicant has made their presentation. He would like to return to what their charge is under the ordinance, which is following review of the materials submitted the Development Review Board shall make recommendations to guide the applicant in the preparation of plans for preliminary stage 2 plan review. The Board's recommendations shall be recorded in the minutes of the meeting and shall be provided to the applicant. The Board will undertake that activity after considering what has been presented and consulting with staff. This is a project of sufficient complexity that we can't make a recommendation tonight. He told the applicant this should be available in June.

Mr. Marsh said a particular concern from the project's perspective would be the Board's feelings in terms of minimizing the road widths and having much more pedestrian friendly paths versus sidewalks. That is a very important issue to the project, and having the Board's feedback on that issue is very important to the applicants.

Mr. Zalinger said that is the presentation for this evening. It is very difficult for the Development Review Board if no one appears to ask questions and make comments. It has been beneficial to the Board and the applicant to hear from other folks in the neighborhood. It has been productive to have that dialogue. The Board would like to encourage the neighbors to meet in concert with and work with the applicant in developing the project.

Mr. Zalinger said they were going to close the sketch plan review of this project and issue our minutes in the near future. He thanked everyone for attending.

Adjournment:

Mr. Blakeman moved adjournment, with Mr. O'Connell seconding the motion. The Development Review Board adjourned.

Respectfully submitted,

Leslie Ratley-Beach
Administrative Officer

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