

Montpelier Development Review Board
September 17, 2007
City Council Chambers, City Hall

Approved

Present: Philip Zalinger, Chair; Jack Lindley, Alan Blakeman, Jeremy Hoff, Roger Cranse, and Daniel Richardson.
Staff: Clancy DeSmet, Planning & Zoning Administrator

Call to Order:
Philip Zalinger, Chair, called the meeting to order at 7:00 p.m.

Review of Minutes:
The DRB reviewed the minutes of August 6th and September 4th. There was a quorum present to review the August 6, 2007 minutes. Mr. Hoff moved approval of the minutes of August 6, 2007 as submitted, with Mr. Lindley seconding the motion. The DRB adopted the minutes of August 6, 2007.

Mr. Blakeman moved approval of the minutes of September 4, 2007, with Mr. Richardson seconding the motion. The minutes of September 4, 2007 were adopted by the DRB.

I. Design Review – CB-I/DCD
44 Main Street (Black Door)
Applicant: Sign Design (Jeff Jacobs)
Wall Sign

An agent, on behalf of the applicant, just advised the Planning Office they would not be able to attend. He asked DRB members how they felt about proceeding without someone present on behalf of the applicant. The Board has approached it both ways in the past. When the recommendations of the Design Review Committee were minimal and the applicant did not object to them, the Board went ahead and considered the application. In other circumstances, when there were substantive comments from the Design Review Committee, the Board has continued the matter until a later date when the applicant could be present. In this instance it appears the Design Review Committee has recommended approval with a minor adjustment that pins for attachment of the individual lettering and light fixtures be located in the mortar joints only rather than directly in the brick.

Mr. Cranse said he felt comfortable considering the application. Mr. Richardson said after having reviewed the minutes of the Design Review Committee he tends to agree with the minority. Going through the criteria that the Design Review Committee reviews he is having trouble seeing that it is in harmony with the surrounding buildings. This is the first instance that there has been a sign proposed above.

Ms. DeSmet reported that Cityscape suggests that 2nd story businesses are permitted to display signs which are placed either directly beside or immediately above a related window, and a sign that is placed beside a window should be no higher than the height of the window. However the problem with this location is there no place to put a sign of that nature. It is supposed to be no higher than the windows, but there is no place to do that because of the architectural feature of the bricks. The DRC found another picture in Cityscape that allowed for a sign of this type and the DRC approved it. The applicant was in agreement at the DRC meeting and the DRC voted to approve it 3-1. The Chair recused herself from participating.

Mr. Hoff said driving down Main Street or State Street there are a lot of incidences where there are businesses on the second story. At City Center where the Vermont League of Cities and Towns is upstairs and the Nature Conservancy on State Street are examples of where there are not signs above the sign band or lentil. Those were the only ones in downtown other than Black River Design, which has a window stencil. In a lot of these empty buildings and their upper floors start switching over to commercial uses, he believes the Planning Department is going to see this more often. He is hesitant to approve this. It doesn't match what is there now and not inconformity with the surrounding properties.

Mr. Zalinger said there are several issues here. Generally speaking, if the Design Review Committee has approved an application with adjustments or recommendations and the applicant accepts all of the

recommendations, absent a strong feeling on behalf of the Board we don't independently take evidence on the application. Even if the applicant were here, if you feel strongly enough to disregard the Design Review Committee's approval, you could open consideration of the matter entirely. The same question would apply if the applicant is not here. He asked if the Board could take it as a matter of the record that the Design Review Committee approved it and the applicant is comfortable with the recommendations of the DRC that the individual letters and fixtures be affixed at the joints and not on the brick face.

Mr. DeSmet said the applicant signed it and agreed with the DRC recommendations.

Mr. Zalinger said that is the record before the Board. The question is, does anybody feel similarly to Jeremy that they don't want to accept the Design Review Committee's approval and want to go forward independently with a review?

Mr. Blakeman asked if the halogen lights were real bright.

Mr. DeSmet replied they weren't going to be bright lights. They are there to provide a back light for the sign. Mr. Richardson said the application says the lights are going to be a 50 watt maximum.

Mr. Hoff said going back to the initial question about whether or not the Board wants to reopen the evidence that he is certainly comfortable with accepting it procedurally simply because the Design Review Committee, not withstanding debate or internal dilemma, ultimately found the sign to be conforming to Cityscape standards. He doesn't see compelling available testimony to overturn that.

Mr. Cranse said he feels comfortable acting on the application. He agrees with Mr. Richardson. Mr. Lindley said he had no problem acting on it.

Mr. Hoff said he hadn't referenced back to the Cityscape other than what the DRC referenced. Going through the design review criteria, criteria 2 deals with harmony of the exterior design of other properties in the district, and this just isn't. Applied letters affixed to the building are common and recommended in the district was the response from the Design Review Committee, but it doesn't say what floor it is on. That is where he is stuck. If the city starts allowing signs on the sign bands on all of the buildings downtown, he guesses we will at some point.

Mr. Zalinger said these are applied letters and together constitute a sign. All of the other signs Jeremy referenced before, such as the City Center buildings most of those are an independent sign of a different composed material that is affixed to the building.

Mr. Hoff said he is certainly open to persuasion that we should allow signs above where they are now. His point is that there aren't any now. Does it matter that there aren't signs above the first floor of any of the downtown buildings?

Mr. Cranse said the DRC say it is common and Jeremy says there aren't any.

Mr. Zalinger said the DRB reached its own independent conclusion on that question. Mr. Hoff said he felt they were talking about the materials that make up the sign and how it was applied to the building, not where on the building it was located.

Mr. Zalinger said the second criteria said applied letters affixed to the building are common and recommended in the district. The gold color composite material is compatible in the district.

Mr. Hoff said that speaks to construction and not location.

Mr. Richardson said it is a judgment call and he doesn't see a basis to upset the DRC's design call on this particular instance. The concern Jeremy brings up is certainly valid which on a case by case basis is needed to apply this criteria. As Clancy pointed out, this is a situation where the normal allowance for a second floor sign is usually on the side of the building and the building itself will not allow that kind of signage. The question for the DRC, and the DRB ultimately, becomes whether or not we are willing to put a sign that might conform with a strict standard but interrupt the architectural structure and feature of the building, or apply flexible criteria and in this case allow this particular sign in this location because it is the best of all places, at least as far as the DRC has found.

Mr. Zalinger said he agreed with the other members that this is not a situation in which he is comfortable of the Board's own initiative revisiting the design review issues that the Design Review Committee has the first opportunity to make a decision upon. Whether the applicant is here or not, the DRC has approved it. Maybe the Board should send Clancy back with a message that there is some concern among board members about how they are going to approach signs being affixed above the first story.

Mr. Hoff said that's fine, and then they will comply with criteria 2 under design review.

Mr. Zalinger said it hard sitting in judgment over the DRC's decisions.

Mr. Richardson moved to approve design review for a new sign at 44 Main Street as modified by the Design Review Committee. Mr. Lindley seconded the motion. The vote on the motion was approved 5-1, with Jeremy Hoff voting in opposition. The Development Review Board granted design review approval for 44 Main Street.

II. Design Review – GB-DCD
7 Green Mountain Drive
Applicant: Fountains America
Wall sign
Interested Party: Andrew Carlos

Mr. Zalinger explained that the Development Review Board gives great weight to the Design Review Committee's recommendations. The Design Review Committee has recommended approval of this application as submitted. The DRC did not seek any changes. Therefore, they don't take additional evidence on the matter.

Mr. Blakeman moved approval of the wall sign for Fountains America at 7 Green Mountain Drive. Mr. Hoff seconded the motion. Design review for a wall sign for Fountains America at 7 Green Mountain Drive was granted by the Development Review Board 6-0. Mr. Zalinger said the applicant would receive a written decision in the mail.

III. Design Review – GB/DCD
5 Green Mountain Drive
Applicant: Vince Blaisdell, Dept. of Buildings & General Services
Accessory Structure

Mr. Lindley said he was nonplussed that this is a consent agenda. He realizes under 205 (C) that our administrative officer can make a determination whether something goes under design review or site plan review. Everything that had to do with structures it has been the tradition comes in under site plan review. He would defer to lawyers to determine whether we are in the right church but the wrong pew with this application. He would request that the administrative officer review the criteria for what goes under the design review activity versus site plan review. There was a similar structure down the street with the bus stop by Shaw's. His recollection was that that was not done under design review. This is a similar structure. He believes this

application has been designed as design review. The recommendation for the Board tonight would be a motion to accept the application and he will vote to oppose it because he thinks the application should be brought back to

the DRB as a site plan review project. He realizes that 205 (C) gives a certain amount of authority to our administrative officer.

Mr. Hoff and Mr. Cranse both agreed with Jack's analysis. Mr. Richardson said he had no particular concerns. Mr. Zalinger said he concurred with Mr. Lindley as well. He apologized to Mr. Blaisdell for starting the permitting journey. In his experience of more than 20 years on the zoning board, and Jack's years serving on the Planning Commission, virtually any structure will precipitate site plan review rather than simply design review. Although there is a site plan and sufficient information in the application for the Board to conduct a site plan review, it wasn't warned for site plan review. The Board can't undertake a different review at the hearing other than that which was warned. Jack Lindley used the example of the Shaw's bus shelter. Any structure of the smallest nature should have site plan review rather than design review. The Board is going to have to table the application and re-warn it for site plan review. The Board feels it is important enough to proceed in the right direction because we have to live with our precedent.

Mr. DeSmet, the zoning administrator, said he was looking at 307 (B) in the ordinance about site plan amendments and changes to building footprints involving less than 500 square feet. That is one of the reasons he didn't do site plan for the application.

Mr. Zalinger said this building was constructed during the 1960's so it may have predated the adoption of the Montpelier zoning ordinance, which was in 1971 and 1973.

Mr. Zalinger told Mr. Blaisdell that the next regularly scheduled meeting of the Development Review Board is October 1st. He asked Clancy if they could warn for the 1st of October. Mr. DeSmet said no, it would have to be scheduled for the 15th. Mr. Zalinger inquired of Mr. Blaisdell if that would interfere with his construction plans.

Mr. Blaisdell said they can't do any site work after October 15th because of the Agency of Natural Resources. He brought the application in doing what the city wanted and followed their instructions with the hope that tonight he would receive a go ahead with the project because they can't do construction after October 15th.

Mr. Zalinger asked if the Agency of Natural Resources had jurisdiction over the Green Mountain Drive site. Mr. Blaisdell said yes, the whole state of Vermont. You can't do any site work after October 15th.

Mr. Zalinger said that four of the members were 100 percent certain he could. He said he was sorry to be perceived as not being neighborly, but the Board is going to have to re-warn this for October 15th and conduct a site plan review at that time.

Mr. Richardson said with the Shaw's bus shelter, as long as this fits within the design control district there is an element of design review so it's not like they are tossing out the work of the Design Review Committee. That would just be incorporated into the site plan. They reviewed this application as well. Mr. Zalinger said they are adding site plan review to the design review application.

Mr. Lindley said in the site plan review there are different criteria the Board will use versus the Design Review Committee did. We haven't lost the element of design review but there is just different criteria for approval.

Mr. Blakeman asked Mr. Blaisdell if when he said the state of Vermont did he mean State of Vermont government buildings as opposed to a hotel.

Mr. Blaisdell said his understanding is that the Agency of Natural Resources because of storm water control and runoff you can't disturb any site after October 15th because you can't stabilize the site and have plants grow after that date. He asked if he would be able to prep the site for the structure before that time so he can stabilize it and

be within the rules of the Agency of Natural Resources. If they don't receive approval, there will just be a small cement slab on the lawn. That wouldn't be permanent and could be removed any time, but they have to disturb the grass to do it.

Mr. Zalinger said he could assure him that construction proceeds at a pace 12 months a year in the state of Vermont. Mr. Lindley said he could pour cement in the middle of the winter. Mr. Blaisdell added that wasn't site work.

Mr. Zalinger added that Act 250 permits are granted and construction proceeds 12 months a year. The Board doesn't generally recommend that applicants start any site work until the permit is issued.

Mr. Blaisdell asked if there was something he could furnish the Planning Office tomorrow from the Agency of Natural Resources that states this. Mr. Zalinger said the Board isn't persuaded, and nothing he sends tomorrow will persuade them, that they have any other alternative but to proceed on October 15th with hearing the application for site plan and design review. He said they regret any inconvenience and they are sorry that the smokers at the Department of Labor and Industry will have to wait for a later date for their smoking shelter. The Board will re-warn this for October 15, 2007.

IV. Design Review – CB-I/DCD

1 School Street
Applicant: Sharon Allen
Projecting Sign

Mr. Zalinger said this is a similar situation to the application at 44 Main Street. The Design Review Committee reviewed the application and recommended approval as proposed. Mr. Richardson said as long as the applicant is in agreement with the recommendations he has no problem with it. Mr. Zalinger said Sharon Allen sat on the Zoning Board of Adjustment for some time and on the DRB, so she should be familiar with the guidelines.

Mr. Cranse moved approval of the design review application for 1 School Street. Mr. Lindley seconded the motion. The motion was approved favorably 6-0. Design review is granted for 1 School Street.

V. Conditional Use Approval – CB-II/DCD

7 Hillside Avenue
Applicant: Nat Frothingham
Accessory Apartment
Interested Party: Craig Hill

Mr. Zalinger administered the oath to Nat Frothingham and Craig Hill.

Ms. DeSmet said prior to his appointment with the City of Montpelier Mr. Frothingham came into the Planning Office and talked to the staff about putting in an accessory apartment in his home on Hillside Avenue. One of the problems is parking. Mr. DeSmet said he worked with Mr. Frothingham and talked with the Department of Public Works and determined it is a conditional use review because he needs a parking waiver. Technically, the creation of an apartment would necessitate a larger parking area. Two units requires one parking space per dwelling unit on unobstructed, or two per dwelling obstructed. He currently has one parking space.

Mr. Frothingham said he applied to the city for some help in designing an accessory apartment while the accessory apartment grant program was still in effect. He understands he needs at least two parking spaces. His first impulse was to have the parking spaces side by side which would have meant digging out from the hill. Tom McArdle made a site visit and suggested end to end.

Mr. Frothingham said he and Craig Hill are presently sharing his house. They made some measurements with a measuring tape so they know how much space there is. The space is 35' 1" and there needs to be a need to add a foot of space by the house by going into the ledge.

Mr. Cranse asked if this would be the kind of parking that Tom in his memo recommended. Mr. Frothingham said yes. Cars would be end to end. In order to accommodate this they would have to go 1 foot into the ledge.

Mr. Zalinger asked if he was willing to accommodate Tom McArdle's recommendations for the parking configuration. Mr. Frothingham said yes.

Mr. Cranse said he drove by today. It is quite a formidable bit of ledge at the property. He inquired if it would require dynamite. Mr. Frothingham said no, that it seems to be coming apart anyway. He said Mr. Cranse might have seen some stones he piled there. Mr. Cranse said it looked like a big rock wall. Mr. Frothingham said it s ledge, or rock wall.

Mr. Zalinger reviewed through the conditional use criteria.

Conditional Use Criteria:

Conditional use may be approved only if the Development Review Board determines that the proposed use does not adversely affect the following:

- 1) *The capacity of existing or planned community facilities.* Mr. Zalinger said in his view the addition of one accessory apartment won't strain the ability of the City of Montpelier to deliver central governmental community services. Indeed, this application is being sought in response to a citywide solicitation to add accessory apartments so it seems to be consistent with the delivery of community facilities by the city.
- 2) *The application would not adversely affect the character of the area as defined by the purposes of the zoning district within which the project is located.* This application is located in the CB-II district. Certainly, duplexes are permitted uses within CB-II, and it is essentially residential in nature. It seems that the addition of an accessory apartment would be consistent with the character of the area.
- 3) *That the proposed use will not adversely affect traffic on roads and highways in the vicinity.* The Board has on the record the recommendation from Tom McArdle of the Department of Public Works with respect to parking. As long as all of the parking is off street, there really won't be a substantial increase in traffic in and out. There will be just one more vehicle. He is comfortable in concluding that it doesn't adversely affect the traffic on roads and highways in the vicinity.
- 4) *That it doesn't adversely affect the zoning and subdivision regulations in effect.* This will all be internal construction. The construction won't be inconsistent with the setbacks.
- 5) *That it does not adversely affect the utilization of renewable energy resources.* Not applicable.

Mr. Hill said he would add it appears from Tom McArdle's report that this will not affect snow removal. It is a dead end street so they would be less worried about traffic in this particular application. Tom McArdle seems convinced this will not adversely affect that.

Mr. Blakeman asked if this would allow enough room for a car to turn around. Mr. Frothingham replied no. One car would have to leave before the other car could leave.

Mr. Hoff said he felt it was a legitimate concern. There's not a lot of room to maneuver up there. Mr. Cranse said the nature of the neighborhood is that it is steep and everything is jammed together.

Mr. Hill said there actually is plenty of room for the front car to simply back out without having to use the neighbor's driveway. There is plenty of room for the car to pull out and the car behind it to go down the street.

Mr. Lindley moved approval of a conditional use for 7 Hillside Avenue with the recommendations provided by the Public Works Department with regards to the parking. Mr. Blakeman seconded the motion.

Mr. Zalinger said the last provision of 605 D(4). The DRB may reduce or waive the off street parking requirement for accessory apartments where the waiver will not create an undue negative impact on the neighborhood. Not only does the Board have to grant conditional use, but they should also waive the off street parking requirement in this instance. Mr. Lindley said he would accept that as a friendly amendment to include waiving of Section 605 D(4)(d), which includes the granting of a waiver.

Mr. Zalinger said he would also point out that Section 605 D(4)(d) requires the DRB to determine that it will not create an undue negative impact on the neighborhood. There can be some adverse consequences, but undue means disproportionate to the benefit that it is going to bring to the applicant. This seems like a reasonable alternative. Although there will be more density in that neighborhood, he doesn't think it is going to be an undue negative affect on the neighborhood. Mr. Cranse agreed. The impact will be primarily on the two occupants of the house, but that is not the neighborhood.

Mr. Blakeman agreed with the friendly amendment. Mr. Zalinger said the Board is not only granting conditional use approval, but also waiving the off street parking requirement because the Board has concluded it will not create an undue negative impact on the neighborhood.

Mr. Hoff asked if it would be more appropriate to reduce rather than to waive the requirement to allow for one obstructed and one unobstructed parking space as opposed to waiving the requirement all together. Mr. Zalinger agreed that it was just to reduce it to two spaces. Yes, consider it a reduction rather than a waiver. We will reduce the off street parking to two spaces.

The motion was voted favorably 6-0. Conditional use is granted, as is a reduction in the off street parking requirement to two spaces.

VI. Site Plan Review – MDR/LDR

303 Berlin Street

Applicant: William Doelger

Site Plan Review for construction of new two-unit dwelling

Mr. DeSmet said the application was postponed. They came in with some plans and hadn't spoken with the Department of Public Works yet. The application isn't ready yet.

Other Business:

None.

Adjournment:

Mr. Lindley moved adjournment, with Mr. Hoff seconding the motion. The motion was voted favorably 6-0. The Development Review Board adjourned.

Respectfully submitted,

Clancy DeSmet
Planning and Zoning Administrator

Transcribed by:
Joan Clack, City Clerk's Office