

Montpelier Development Review Board
October 1, 2007
City Council Chambers, City Hall

Approved

Present: Kevin O'Connell, Vice Chair; Alan Blakeman, Daniel Richardson, Jack Lindley, Jeremy Hoff, Roger Cranse, and Kenneth Matzner. Philip Zalinger, Chair, arrived after the Consent Agenda had been acted on.
Staff: Clancy DeSmet, Planning & Zoning Administrator.

Call to Order:
Kevin O'Connell, Vice Chair, called the meeting to order at 7:00 P.M.

Review of September 17, 2007 Minutes:
Review of the September 17th Minutes was deferred until the end of the meeting.

All Board Meeting Announcement:
Gwen Hallsmith, Director of Planning and Community Development, appeared and told members the All Board meeting is scheduled for November 1st. There were questions about the agenda because there was some concern that members of the Development Review Board would be asked to discuss issues that will be coming in front of you. The City Council and Planning Commission decided to take up the question of city/state relations. She wanted to reassure members of the DRB that City Council and Planning Commission both are very aware of the concerns you have about ex parte communications and issues around specific proposals, so that is not on the agenda. They will be covering general questions like pilot and development in general the state has proposed for the city and what mechanisms are in place to insure it proceeds as it should, what kinds of rules are in place. There is a lot of lack of clarity on a lot of the boards' part about what the state is allowed to do and not allowed to do. She wanted to reassure members of the DRB that the discussion wasn't going to be on topics the board could not legally discuss. They are going to be recognizing board members who have served for a long time at the meeting, and several of the DRB members are likely to be on that list. The All Board meeting is November 1, 2007 at 7:00 P.M.

- I. Design Review – CB-I/DCD**
5 State Street
Applicant: Kevin Casey, Montpelier Property Management
Exterior painting
Owner: Jeffrey Jacobs

The application is very straight forward.

Mr. Lindley moved approval for Design Review for 5 State Street as submitted. Mr. Cranse seconded the motion. The motion was approved unanimously 6-0.

- II. Design Review – HDR/DCD**
7 West Street
Applicant: Clar Contracting
Expanding stairs and restoring railings
Owner: Steve Hingtgen and Michelle Child.

Mr. Clar said on the back porch they wanted to change where the existing stairs were and wrap them around the corner so the stairs take an "L" shape as opposed to a straight shot down the porch. On the front porch they wanted to replicate the original design of the stair on the front porch.

Mr. O'Connell said in the DRC's recommendations it says a concrete apron may be removed from around the foundation.

Mr. DeSmet said the applicant requested that at the Design Review Committee meeting, and the DRC voted 5-0 to remove it.

Mr. Hingtgen said the Chair of the DRC asked if there was anything else they wanted approve while they were in front of them. When she asked about landscaping, they told her they would like to take the concrete apron off from around the house because it is broken. This was made optional with their approval.

Mr. Blakeman moved approval for design review at 7 West Street with the DRC's suggested optional change. Mr. Matzner seconded the motion.

Mr. Lindley asked if once they removed the concrete apron that they didn't intend to bring it back.

Mr. Hingtgen said that was right. Their intention is just to remove it.

Mr. Richardson asked if they would be replacing it with anything.

Mr. Hingtgen said probably just grass. Currently, the water is going directly to the foundation because it has created a funnel to the foundation because of the bad condition. There is a large parking lot next door. One of their long term intentions is to try to create a more residential feel around the house by removing as much pavement as they can while still meeting the needs of everyone around them. This is an opportunity to remove a few hundred square feet of concrete. They won't do it in areas where they feel the foundation might be structurally damaged by doing so. It may not happen this year. There is some serious damage on one side they would like to fix.

Mr. Richardson said he would read the amendment to also include replacement of the concrete apron with more permanent material such as gravel or grass. Mr. O'Connell said that would be fine.

Mr. Cranse said he recalled in many design review applications there is actually a representation of what the new feature will be. In this application there are verbal representations but it isn't clear to him what it visually looks like. In design review it is the visual that is part of the picture, anyway.

Mr. O'Connell asked Roger Cranse if he had read the DRC minutes. It is fairly well described, and he would consider the minutes to be part of the record.

Mr. Cranse said he doesn't know what the porch will look like. How did they approve it if it isn't clear visually?

Mr. Lindley said they provided a picture of the original building to the DRC, which the DRB doesn't have. The proposal is an authentic reproduction of the original building. Mr. O'Connell said that is why he thought they were provided with enough detail.

The motion to approve the design review at 7 West Street was approved 6-0-1, with Mr. Cranse abstaining. Approval was granted.

III. Design Review – CB-I/DCD

70 Main Street

Applicant: Mark Smith

Removal of second story shed and existing vinyl siding, restoring original wooden clapboards.

Owner: William Shouldice

Mr. O'Connell, Acting Chair, administered the oath to Mark Smith.

Mr. Smith said the existing wall has vinyl siding, which was a temporary shelter for a wall between two structures. That wall is shared both by Jeff Jacobs and Charlie-O's and the Shouldice's with the Country Store that was there. The wall was sealed temporarily. They would like to put wood siding on the wall. They aren't

saying that eventually there may be a proposed continuation of the Country Store, but in the meantime would like to dress it up and make it look better. They are proposing to remove the shed, which used to be the furnace room for the Country Store. It is no longer accessible. They would like to remove it and continue the roof line. There is a survey map that shows the Shouldice's do own 5 feet over the top of Charlie-O's, but that is the second floor only. In the future if they want to build, they would want to use that space over Charlie-O's at a later date. That's not pertaining to this application.

Mr. Smith said this application is just to clean up the site and waterproof Charlie-O's. The Shouldice family is in fear that it will leak this winter onto Charlie-O's and they will be liable. There is a blue tarp up there that is only temporary.

Mr. Smith said the Design Review Committee asked that the gas tanks be concealed so there is a two-sided clapboarded fence around it. The tanks are put there per state regulations for setback requirements; that is why they are located where they are.

Mr. O'Connell asked if they had seen the three adjustments the Design Review Committee had suggested. They say the vinyl siding will be removed and replaced with re-existing wood siding to match the building. Isn't that what he is proposing?

Mr. Smith said the original proposal was to just patch in the vinyl siding and clean the site up to facilitate the removal of the shed. The applicant is in agreement that the vinyl siding would mostly have to come down anyway so they might as well replace it with clapboard.

Mr. O'Connell asked the applicant if he was in agreement with the recommendations made by the Design Review Committee. Mr. Smith said there was no problem.

Mr. Lindley moved approval of design review for 70 Main Street with the Design Review Committee's recommendations. Mr. Richardson seconded the motion. Design Review for 70 Main Street was granted approval on a 7-0 vote by the DRB.

IV. Design Review – CIV/DCD
7 Baldwin Street
Applicant: Randall Contracting, Inc.
Building renovations and restoration.
Owner: Ralph and Sharon Gerlach

Mr. O'Connell administered the oath to Mr. Randall.

Mr. DeSmet said Randall Contracting came into the Planning Office to consult on the project because they found some original materials underneath the metal siding. They came in to discuss what options they had with windows, handicapped compliance and siding. It is a detailed application. The DRC was pleased with the renovations.

Mr. O'Connell said it was complex enough he was surprised it was on the Consent Agenda. He said after reviewing the proposal it looks straight forward.

Mr. Richardson said there are a number of external changes, but it is a permitted use within the high density residential district.

Mr. O'Connell said he would ask that staff keep in mind that the more complex projects deserve a little more scrutiny. The DRC does a fine job and the Development Review Board probably agrees with them 90 percent of the time. He asked Mr. Randall to give the DRB a summary of the project.

Mr. Randall said the Gerlach's purchased the office building in May and they found a lot of deterioration throughout the building with the roof lines, the soffets, and the small ornate window casings at the top on the third floor level where water was coming in. Washington County Mental Health had owned the building before and a lot of work never did get done due to finances. They received a building permit to go inside and do a lot of structural work that needed to be done. They took off all of the exterior trim. There are absolutely no changes in the trim design on the building. They just found a foundation problem.

The owners have come up with a list of what they want to do with the office building. One of the first things they would like to do is take off the aluminum siding and restore the existing siding underneath. It is a 4-inch wooden clapboard. The siding covered a lot of the old frieze board around the top.

Washington County Mental Health had a handicapped ramp put out front. The ramp meets the code. They would like to remove the wooden railings. It is just a boxed in white enclosure. They would like to take that off and put in a nicer looking wooden handrail, but have a steel rail on the inside so it will meet code. The exterior door to the building which is the entrance is two 2-foot panels. In order to meet codes for the building they need the door to swing out at least three feet. The DRC recommended they dowel that door together and hinge it in the center and have it swing out so it will meet the egress requirement for that building. That would keep the integrity of the building intact.

Mr. O'Connell asked if the building was going to be used for residential or office space.

Mr. Randall said office space.

Mr. O'Connell said that is one of the last buildings that are in need of restoration, so that will be a major improvement.

Mr. Randall said that just with the maintenance repairs and the details of restoring the old trim has been a huge improvement. Replacing the windows is 2 over 2 on the third floor.

Mr. Hoff asked if he had unearthed any of the original colors. Mr. Randall said there was a beige/green, a very dull sun beaten green underneath. They would like to maintain the white paint at this time.

Mr. Lindley moved approval of design review for 7 Baldwin Street with the recommendations made by the DRC. Mr. Randall said they accepted the DRC's recommendations. Mr. Blakeman seconded the motion. The motion was voted 7-0 in favor of the application.

Mr. O'Connell turned the meeting over to Mr. Zalinger to chair.

- V. **Site Plan Approval – HDR**
 12-14 Sibley Avenue
 Applicant: Paul Arioli
 Conversion of building from two to three units and
 construction of a three car parking lot at rear of building.
 Owner: Paul J. Arioli Irrevocable Trust
 Interested Parties: Paul Arioli and Ed Larkin

Mr. Zalinger administered the oath the Mr. Arioli and Mr. Larkin.

Mr. DeSmet said Mr. Arioli owns a unit on 12-14 Sibley Avenue and is converting it to a three-unit dwelling and needs to meet the parking requirements which will require him to excavate the back porch to make room for three spaces.

Mr. Zalinger told Mr. Arioli he would like to hear him address the storm water runoff from the rear portion of the lot across the new parking area.

Mr. Arioli said there will be a 32.5' x 40' parking lot. The drainage will run the back of the parking lot down to the existing drain on the left hand side of the building. Water in the basement has also been an issue for him, which is why he is doing the drainage.

Mr. Zalinger inquired where the existing drain runs.

Mr. Arioli replied there is a retaining wall on the left hand side on 10 Sibley, and there is a drain that comes down about 4 feet from the sidewalk.

Mr. Larkin said there is a 4 inch plastic pipe up in back of his dwelling. They thought they would just tie into that from the parking area where the water runs off the bank.

Mr. Lindley asked what the grade was for the three parking lots down to Sibley Avenue. Is the staymat going to move down the driveway? Is there going to be a problem because of a slope?

Mr. Arioli said the staymat is going to be level.

Mr. Richardson asked what the grade for the three proposed parking spaces would be. Will they be level with each other, or will there be a slight grade? Mr. Arioli said the parking lot will actually slope back into the hill. Mr. Richardson asked if there would be drainage pipes put into the hill behind the retaining wall. Mr. Arioli said he had contemplated that, but he doesn't think they are necessary.

Mr. Lindley asked if Public Works had reviewed the application.

Mr. DeSmet said yes, extensively. Tom McArdle wanted to know where he was going to drain it to, and he didn't have a problem when he was told it was going to the existing drain. He doesn't know if the city did that or not. Mr. O'Connell said they did a number of these projects when they were going to the separated storm water pipes. The thinking behind that was that it was preemptive move to deal with the storm water as it came out of various places in the city. In his neighborhood where there is a very big hill, and the water comes down through a number of different properties, the city took the responsibility to gather that water and bring it into the storm drain even though some of it went across private property.

Mr. Arioli said he was thinking about putting 4 inch pipe in front of the cement blocks and crushed stone under the blocks and behind the blocks.

Mr. Richardson said the only other concern he had was on the corner where the pipes are going to turn the corner from the bank to the existing drain. He asked if there were any reinforcement of the corner. Mr. Arioli said they could probably put a small catch basin in there. That would catch all of the water and keep it from going down the driveway.

Mr. Richardson said he would propose that a catch basin be located at the northwest corner of the proposed drain pipe, roughly 32 feet from the corner of the house to reinforce the corner which the drain pipe turns south.

Mr. Zalinger asked if the applicant was in agreement with the change. Mr. Arioli said he didn't see the need for it, but if that is the way it needs to be he is okay with it.

Mr. O'Connell asked Dan Richardson to articulate what the change will do. Mr. Richardson said because the proposed pipe is taking a 90 degree turn the water is not going to follow the turn. His fear is that they would have water at that point going straight down to 10 Sibley Avenue either over the bank or through it perhaps causing damage to the retaining wall. That corner would benefit from some kind of reinforcement device, either a drain cover or some kind of cement structure.

Mr. Arioli said 10 Sibley Avenue already has a drain on his property and the retaining wall where Mr. Richardson proposes to put the drainage basin is about 8 feet high, and it will be even higher because of the slope.

Mr. Richardson said if he understands the picture, and for the purpose of the minutes, it is a straight on view looking west to 8-10 Sibley Avenue. This portion of the bank is actually going to be removed to create the parking spaces. His point is that there is a drainage ditch that runs from east to west along the bank which is going to accumulate water. Water is going to hit the wall and do damage over time. It may go through or underneath the wall.

Mr. O'Connell asked if it would make sense to have Public Works take another look at the project to address those concerns. Mr. Richardson said he would certainly be in favor of that. It is the most serious runoff concern he sees in the proposal. Even open swales with slight curves have those problems with washouts.

Mr. O'Connell asked Clancy DeSmet when Public Works looked at this if they had gone to that level of detail. Mr. DeSmet said Tom McArdle looked at this a lot. Mr. Arioli has been in almost once a week for several weeks.

Mr. Zalinger asked Mr. Larkin if he was an excavator by trade. Mr. Larkin replied yes, 35 years. He asked him what his opinion of a catch basin was. Mr. Larkin said he thought it was a good idea. It would act like a clean out and keep it flushed out so there wouldn't be any leaves in it.

Mr. Zalinger asked if it would represent a significant incremental cost. Mr. Larkin said it wouldn't be that expensive to put it in. You wouldn't have to worry that much about after it was installed.

Mr. Richardson asked what the catch basin would look like and how it would be constructed.

Mr. Larkin said Prescott sells an 18 inch plastic pipe with a lid on it. You can just pop the lid off and flush out the pipe to get the leaves out of it. It isn't big enough for a skunk can get in there. Mr. Arioli said he would be all right with that if it has to be that way.

Mr. Zalinger said the DRB was going to add an 18 inch catch basin in the corner as a condition to site plan approval.

Mr. Hoff moved approval of the site plan for 12-14 Sibley Avenue as submitted with the addition of a an 18 inch catch basin at the location of the right angle where the drain pipe turns at the northwest corner of the parking lot. Mr. O'Connell seconded the motion. The motion was approved favorably 7-0.

VI. Site Plan Approval – HDR

26 Loomis Street

Applicant: Brian Abbott

Site Plan Review for conversion of a carriage house to a one unit dwelling.

Owner: Christa Lancaster

Mr. Zalinger said Brian Abbott is present on behalf of the owner. Mr. Zalinger administered the oath to Mr. Abbott.

Mr. DeSmet said because of the need for more dwellings in the city of Montpelier the applicant has decided to convert a 24' x 32' carriage house into a one-unit dwelling, making it four units total at 26 Loomis Street.

Mr. Abbott said this is an unattached carriage house which dates from the time of the original house at the turn of the century. It is two stories and both floors will be converted into living space. There will be one unit of housing in the carriage house.

Mr. Cranse asked if they used the carriage house now for parking. Mr. Abbott said no. There are garage doors on it, but it isn't used for parking; it is just storage, recycling and bikes.

Mr. O'Connell asked how many bedrooms would be in the living unit. Mr. Abbott said one bedroom. There will be a common area downstairs with a kitchen and living room/dining room space. The owner is also an artist so there may be space for her to do some of that work. Upstairs will be a sitting room, bedroom and bathroom.

Mr. Zalinger inquired if there was plumbing in the building yet. Mr. Abbott said there is sewer. There was seasonal water, but they will be converting that to year-round water.

Mr. DeSmet said there is enough parking. Mr. Zalinger said it is the rare application that has sufficient parking.

Mr. Richardson said he had a question about setback. Even though the carriage house already exists, there is a change in use from carriage house to a residential structure. This raises an issue of whether the board has to deal with a variance. He assumes the 3.5 feet is within the 10 foot setback.

Mr. DeSmet said it is under an existing nonconforming structure.

Mr. Richardson said doesn't changing use raise an issue of variance.

Mr. O'Connell said under the old rules it did. Mr. DeSmet said they didn't think it needed a variance.

Mr. O'Connell said any change in use requires a variance unless it has been changed in the ordinance.

Mr. Zalinger said there is no expansion of the nonconforming use.

Mr. Richardson said that by changing from one use to another you are theoretically prolonging the conformity by allowing a different use.

Mr. O'Connell said he thinks Dan is correct because if you had a garage and wanted to put in a residential use at that location. You tear down the old garage but put something back up using the exact same footprint.

Section 803 (b) addresses the change of use. A nonconforming use shall not be changed to another nonconforming use without approval by the Development Review Board, and then only to the use which is of the same or of a more restricted nature.

Mr. Hoff said you could get into the argument of whether it is a nonconforming use or structure. Mr. Zalinger said if the structure's location is within the setback then it is nonconforming. This remains a permitted use because it is HDR. Perhaps it might not be if it were MDR.

Mr. Richardson said he would still argue section 803 (b). The use of the structure is what they are looking at. He would argue that changing it to a residence doesn't necessarily enlarge the nonconformity because of its location.

Mr. Zalinger said if section 803 (b) is to have any substance, what if you had a creamy stand in the MDR district that had been there historically and it was not a permitted use. You couldn't change the creamy stand to another retail nonconforming use, because the use is the activity and not the structure. You couldn't change the creamy stand to another retail use without approval of the DRB under 803 (b). He has a hard time equating change in the use to requiring a variance because the board never grants variances for uses. There are conditional uses, and variances are always dimensional for the most part. He isn't sure how they could grant a variance for a different use because residential in the HDR is permitted. You don't need to grant a variance for a permitted use.

Mr. Zalinger said there is site plan for this application only because this is site work.

If the applicant was going to change the entrance and come down along the left hand side of the building, that would be a classic variance situation because you are expanding the nonconforming incursion of the building in the setback.

Mr. Richardson said he had no problem with it. He just wanted to raise the issue to make sure they addressed it properly.

Mr. O'Connell asked what the regulations said about a change from one permitted use to another permitted use but with a nonconforming structure, or is that not specifically addressed.

Mr. Zalinger said he thinks it is addressed by the general principle that if the nonconforming structure is not being expanded, its external features, then the use of the interior of the structure is going from one permitted use to another so it is not germane. In this kind of situation maybe the applicant actually designed the project to avoid any changes on that side of the building in reliance upon the fact that it was pre-existing nonconforming and the site is grandfathered as long as there is no change in the exterior.

Mr. Richardson asked the applicant if there was any change to the exterior.

Mr. Abbott said they planned on adding some windows but no change in the footprint.

Mr. O'Connell moved approval of site plan review at 26 Loomis Street as proposed. Mr. Hoff seconded the motion. The motion was voted favorably 7-0, and site plan approval is forthcoming.

Review of September 17, 2007 Minutes:

Mr. Lindley, Mr. Blakeman, Mr. Hoff, Mr. Cranse, Mr. Richardson and Mr. Zalinger were present. Mr. Lindley moved the minutes be approved as printed. Mr. Richardson said something Jeremy Hoff said was mentioned as something he said when they were talking about the 44 Main Street application. There was something that was mentioned by Mr. Hoff that actually should have reflected Mr. Richardson. Mr. Blakeman said on page 4 it should read "designated for design review." Mr. Richardson seconded approval of the minutes of September 17th with minor changes. The vote was unanimous 6-0.

Adjournment:

Mr. Lindley moved adjournment, seconded by Mr. Blakeman. Development Review Board adjourned.

Respectfully submitted,

Clancy DeSmet
Planning and Zoning Administrator

