

Montpelier Development Review Board

June 2, 2008

City Council Chambers, City Hall

Approved

Present: Jack Lindley, Acting Chair; Alan Blakeman, Daniel Richardson, Jeremy Hoff, Roger Cranse and Kenneth Matzner.
Staff: Clancy DeSmet, Planning and Zoning Administrator.

Call to Order by Chair:

Jack Lindley, Acting Chair, called the June 2, 2008 meeting of the Development Review Board to order at 7:00 p.m.

Review of May 19, 2008 Minutes:

Mr. Blakeman moved approval of the minutes of May 19, 2008, as adjusted, with Dan Richardson seconding the motion. The Minutes were adopted on a 5-0 vote.

I. 2 Mather Terrace – MDR/DCD

Applicant: Dan and Carolyn Desch
Design Review for replacing 30 windows.
Tabled.

II. 25 East State Street – CB-I/DCD

Applicant: Ron Sarquiz
Owner: Robert Bertolino
Design Review for a sign.

The applicant was absent.

This application is for an overhanging sign. The DRB didn't feel the need for further testimony. The application had been approved by the Design Review Committee.

Mr. Richardson moved approval of the application for a sign at 25 East State Street, with Mr. Hoff seconding the motion. The application was approved on a favorable vote of 6-0.

III. Site Plan Review – Continuation of Hearing

Country Club Road – IND
Applicant: Jeff Hutchins
Owner: Boardwalk, LLC
Site Plan Review for construction of a new 7,150 square foot Machinery/Heavy Equipment Sales and Service Building.
Interested Parties: Jeff Hutchins
Terry Schaefer, Forcier Aldrich Engineers

The witnesses were administered the oath at the May 19th meeting.

Mr. DeSmet said at the last meeting the Development Review Board listed a number of issues that were outstanding from the previous application. Most of these issues came from Tom McArdle at the Department of Public Works. He didn't receive any updates until today. There is some memo information that Terry Schaefer has submitted. One of the outstanding issues was that Chair Zalinger wanted to know how many units would be displayed at one time, a long term lighting plan as well as a plan for a sign. Tom McArdle wanted to know the pre and post development flows and off site drainage impacts if those flows weren't going to be retained. Erosion control was another outstanding issue.

Mr. Lindley said starting with the display units, what did they conclude?

Mr. Schaefer said they reduced the number of display units down to 40. That is more than he has now, but he wanted the ability to grow and not have to come back for a permit. On the upper part of the plan they will see 40 units on grass parking just off of the parking lot.

Mr. Blakeman asked if they would include both big and small tractors.

Mr. Schaefer responded yes.

Mr. Richardson asked if there was a total reduction of 7 spaces.

Mr. Schaefer said his current inventory is somewhere around 25 to 30, but he would like to be able to grow. They are in a 10 foot wide and 18 feet long parking space. It would be the normal parking space for a car.

Mr. Richardson said it would be 200 feet of display area up along the top and 200 feet along the bottom tier.

Mr. Schaefer said that was correct.

Mr. Richardson asked how long is the actual parking area where the cars park?

Mr. Schaefer said as you coming into the driveway off Country Club Lane on the right hand side there would be 7 parking spots and 12 on the left hand side, with a handicapped up close to the building. There would be 5 more employee parking spots on the back side of the building.

Mr. Lindley said the DRB could move on to the lighting system. What is going on with that?

Mr. Schaefer said there are 3 exterior light poles. The first one as you come in the driveway is on dusk to dawn. The next one as you come in would be at the edge of the parking lot. It is 150 watt mounted fixtures, and that is on dusk to midnight. Then, there would be another pole mounted fixture on the right above the parking lot, which would also be on dusk to midnight. Right now in the plan there is only going to be one exterior pole mounted light that is going to be on dusk to dawn, and the others will be on timers. The whole system will be on timers so it is adjustable. There are also going to be 6 lights under the canopy pointing down, and they are 39 soft light bulbs. They will be on dusk to dawn, also.

Mr. Lindley said the lights look like they are pointed down. Under the canopy obviously the canopy provides the downward movement.

Mr. Hutchins said the lights would be dusk to dawn on a motion detector, though.

Mr. Cranse asked if the tractors parked outside would stay there all night. Mr. Schaefer responded they would stay parked there.

Mr. Schaefer said the front portion under the canopy area the first third of the building is going to be indoor display for the small garden and lawn tractors. The bigger units will be outside. There will also be 2 under canopy lights in the back, and they will be on dusk to dawn with motion detection to help with security. That is the extent of the exterior lighting.

Moving on to the sign plan, Mr. Schaefer said the sign is being designed by John Deere and a permit will be submitted when the sign comes. They have their own paper product of it and their own design. That will go over the canopy on the front side.

With regard to the pre and post development on flows for the off site drainage, Mr. McArdle has indicated some concern about a pipe down toward Country Club Road. Mr. Schaefer said it was on the opposite side towards the warehouse area. They searched the whole area and never could find the outlet for the drainage, and when they were crawling around on his hands and knees they found a crushed pipe. It is a 15 inch existing pipe, and there is a detailed sheet C-3 below the top soil stockpile. It has a minimal existing pool of water and an 8 inch pipe going out of it for normal flows. The emergency overflow up higher is 4 foot x 2 foot into a regular catch basin. Tom

mentioned he was having trouble with the railroad's right-of-way and the railroad's drainage. They are going to install on to the existing culvert at the edge of the property line another catch basin to take care of the water that sits and pools up alongside their side of the railroad. That will be another catch basin on the existing pipe. If everything else fills up and they hit more than the 2.2 design flow for 24 hours, there is another emergency overflow just to the west with a stone rip rap in it.

Mr. Lindley asked if it was his testimony that he was going to clean up the crushed pipe.

Mr. Schaefer said they were taking out the first 15 or 20 feet that is on the piece of property and redoing it and putting in one catch basin as a normal control and another catch basin to take care of the railroads. This represents more drainage caught than what is required, about twice as much. They also felt they could take care of part of the problem where the railroad drainage is.

Mr. Blakeman said he had a question on the two ponds mentioned. Are they going to be seen on the ground level or are they underground?

Mr. Schaefer said they would be seen on ground level. There will be a small wetland type pool and fill up with drainage after a rainstorm, and then leech out. There is a small 8 inch pipe to take the normal flow or low flow and it will be a cattail area primarily.

Mr. Blakeman asked if there would be any kind of protective fence installed.

Mr. Schaefer said the depth will be very minimal. They hadn't planned on fences.

Mr. Lindley asked what he would estimate the depth of the ponds to be.

Mr. Schaefer replied .83 feet at a level, less than a foot. It is mainly just to retain sediment. There is an access road with it down through the property off the display area for maintenance.

Mr. Lindley said that Tom McArdle expressed concern over erosion control was the bank on the upper side.

Mr. Schaefer said they added erosion control matting that they see along the sides of the road. They specified a North American Green SC150, which is fairly stout matting. That is going to cover the whole upper and lower slopes. They talked to Tom about a small swale but were reluctant about installing it because the grades are steep and parts are very shallow. During construction they have added a hay bale dam all the way across the slopes. He dug test beds and there was a mixture of sands and clays. It is very light clay and not like Addison County clay or blue clay. They had a soils analysis done for structural and it was very close to being a clay/sand mixture. It was very silty material.

The outstanding question, which they have struggled with, is the fire hydrant issue. The Fire Chief is telling the Board he doesn't have any problems if you haven't got the flow factor, but he still wants them to go to the Water Supply Division. Obviously because they are sprinklered the fire load is not as serious.

Mr. Schaefer said they would have to do a hydrant flow test. He received a verbal noncommittal from the Water Supply Division they may allow a hydrant if we can get 500 gallons per minute at 20 psi. He believes they are trying to keep the Fire Chief happy. They have received a lot of complaints with their blanket coverage, and he thinks they can make a case if the flow is there. With their recent improvements they think they can. They intend to do a hydrant flow test as soon as we can schedule it with Public Works.

Mr. Lindley said the goal standard is to put the new fire hydrant in and have a sprinklered building and they are willing to do it if it is possible to do so.

Mr. Schaefer said that was right. If they can get permission from the Water Supply Division they will do it. In an industrial area the guidelines for hydrants are 500 feet apart. This is an industrial park or zone.

Mr. Blakeman said the place is loaded with trees. Are they all coming down?

Mr. Schaefer replied no, up to an acre and a half are going to be saved in the back of the building. The majority of them are pines and the rest are scrub poplar trees.

Mr. Richardson said to Clancy that the only issues in his mind are some of the more technical questions about changes to the storm water, erosion control and sediment that Tom McArdle hasn't had a chance to review it. He feels it is beyond his expertise. Is there some way they can have Tom sign off on these conditions.

Mr. DeSmet said that would seem like a reasonable way to do it. He said he looked through it to make sure they were answering all of the questions.

Mr. Schaefer said they worked with Tom and if there is anything he wants that is reasonable they would accommodate him.

Mr. Lindley said he couldn't see any reason why the Board couldn't condition that to administrative approval. He trusts Clancy and Tom to work through those issues, and if they feel it is beyond their scope of what they approved they will come back to us. He would assume a motion would be put in place and those administrative issues they are talking about right now would take into account the Board either approved or disapproved the item, so the clock would start from their action here. He assumes the clock starts upon approval or disapproval of the motion. It is obvious that Tom McArdle has been working with this applicant and he has confidence in Tom's ability to make sure that the whole side of that mountain doesn't end up on Route 2.

Mr. DeSmet said §306 say the DRB either act to approve, approve with conditions or deny. It would be reasonable to approve with those conditions.

Mr. Matzner says he wants clarity where one condition is that they do the water flow test.

Mr. Lindley said he thinks the state allows for that hydrant because the water flow issue is correct, and if they are willing to build it then it is part of the approval process. If the state denies it and the Fire Chief says he can live without it, the Board under §721(b) has flexibility in approving the fire hydrant. It just needs to be worded appropriately so that whichever way it goes with the state we either get a fire hydrant or don't.

Mr. Matzner asked if the water flow test would be done at the existing hydrant, which is uphill.

Mr. Schaefer replied yes. That is the closest one and it would give the most accurate information. They would calculate it and adjust it for the elevation change.

Mr. Lindley said the Board just needs to condition their approval on our friends at the Sate and friends at the Fire Department.

Mr. Matzner wanted to articulate their conditions on the approval from the state based on the water flow test. One is based on approval by Tom McArdle of the technical aspects of drainage.

Mr. Richardson said a sign permit isn't before us, so we'll have to deal with that separately.

Mr. DeSmet said it is administrative. They will show him the measurements and if it is within the conformity standards they will get the permit. They don't necessarily need that as a condition.

Mr. Hoff moved approval of site plan review at County Club Road with two conditions:

1. If possible, the applicant will install a fire hydrant as discussed after making a good faith effort for approval from the state;
2. That the applicant obtains approval for the technical aspects of storm water erosion control and sediment counts from the Department of Public Works.

Mr. Blakeman seconded the motion. The motion was approved on a favorable vote of 6-0.

IV. Sketch Plan Review

20 Hubbard Park Drive – MDR/LDR

Applicant: Tim Heney

2 Lot Subdivision.

Mr. Lindley administered the oath to Tim Heney.

Mr. Heney said basically at this point his mother has about 56 acres, which is the remainder of the Walker Farm. Their home is on that parcel right now, and she has decided to sell the house with 5.33 acres. The access point in is a 60 foot wide strip off Hubbard Park Drive where their driveway currently exists and the home shown on the plot is serviced by city water and sewer. The easterly boundary borders Hubbard Park, and the north and westerly boundaries would border land his mother would retain. Access to the remaining land will be off Clarendon Avenue off their driveway which is a private drive known as Windham Drive, and that would be the access point for the remaining 51 acres for which she has no plans for at this point.

Mr. Lindley inquired what the width of the Clarendon Avenue entrance. Mr. DeSmet said it was 50 feet. It meets our standards. He said the ordinance talks about it being at least 20 feet in width.

Mr. Heney said on the application they would like to request the next hearing be a combined preliminary and final review. They need to make sure they have list of the neighbors.

Mr. DeSmet said if the numbers correspond on the index plan aren't correct it can be confusing. We need to reconcile the addresses.

Mr. Cranse said he is okay with combining the preliminary and final review on this application.

Mr. Lindley said the only thing the Board is suggesting is to clean up the 911 address number problem and come back to see the Board.

V. Variance Request – MDR

5 George Street

Applicant: Steve Hinds and Rose-Ann Robins

Variance from rear yard setback for construction of a residential addition.

Mr. Matzner recused himself from participating in the application.

Mr. Lindley told the applicant they need all five votes and they have a right to wait until there are more members of the Board present if they wish.

Mr. Lindley administered the oath to the applicant.

Mr. DeSmet said the applicant purchased the property in 1985, and the structure was built around 1940. The lot was created in 1929. It's a conforming lot and is 10,000 square feet. The current structure is also conforming and does not encroach on any of the setbacks. The applicant would like to add a two-story addition that would include extra living space and a half bath. Setbacks in a medium density residential are 10, 10 & 30. The current structure is approximately 46 feet from the rear property line and the applicant is requesting a variance of approximately 4 feet into the rear yard setback, so it is a 20 foot addition. There are existing conditions and proposed conditions as well as the variance criteria to review. If it wasn't for the variance it would receive administrative approval. The garage is the same footprint.

Mr. Lindley said the Board has to reach some understanding using the variance criteria to come up with a positive understanding of what the applicant is trying to accomplish.

Variance Criteria: §1006.B (1) (a)-(f)

- a. *That there are unique physical circumstances or conditions, including irregularity, narrowness, or shallowness of lot size or shape, or exceptional topographical or other physical conditions peculiar to the*

particular property, and that unnecessary hardship is due to such conditions, and not the circumstances or conditions generally created by the provisions of the zoning regulation in the neighborhood or district in which the property is located.

Mr. Lindley said it looks like there is a fairly decent drop off on the northwest.

Mr. Hinds said that would be the logical direction to do the addition, but it is challenging terrain there.

Mr. Lindley said if they were to do it on that particular side there wouldn't be a problem with a variance, but the drop off creates a problem.

Mr. Hinds said if they did it on that side presumably there wouldn't even need to be a variance because it would be within the 30 foot setback. He isn't sure what the lot configuration was originally, but if you look at the photograph from the northwest you can see the deck on the back of the house and it slopes down to the large facing side, which originally had a garage cut under it. To the left, if you go to the other side of the house, that is also a slope and a bank there. In other words, the face of the house is kind of tucked into two slopes which means they would have to be dealing with excavation on both sides. He isn't even sure what the soils are there. It would be a much more challenging kind of construction. That was his first choice aesthetically, but it is straighter forward to go out the back. It would be much more costly to put the addition on the side.

b. That because of such physical circumstances or conditions, there is no possibility that the property can be developed in strict conformity with the provisions of the zoning regulation and that the authorization of a variance is, therefore, necessary to enable the reasonable use of property.

He said Mr. Hinds is still going to maintain this as his home residence. The lot was created before the zoning in 1929. Obviously, building in the rear of the property makes for a reasonable use of the property.

Mr. Hinds said the rear lawn is completely flat.

c. That the unnecessary hardship has not been created by the appellant, and the hardship relates to the applicant's land, rather than personal circumstances.

Mr. Lindley said there is no question but the land has a lot of slopes to it.

d. That the variance, if authorized, will not alter the essential character of the neighborhood or district in which the property is located, substantially or permanently impair the appropriate use of development of adjacent property, reduce access to renewable energy resources, nor be detrimental to the public welfare.

Mr. Lindley said the whole neighborhood is single family residences and the applicant is adding square footage to his house and intends to live in it. Mr. Hinds said that was correct.

e. That the variance, if authorized, will represent the minimum variance that will afford relief and will represent the least deviation possible from the zoning regulation and from the Montpelier Municipal Plan.

Mr. Lindley said the applicant is asking for 4 feet from the rear yard setback that is being encroached upon.

Mr. Blakeman asked Mr. Hinds what was behind his house. Mr. Hinds said there is another house up the hill on Highland Avenue, and between the two houses is a cedar hedge. The condos are quite a bit higher up.

f. The variance will not result in the initiation of a nonconforming use of land.

Mr. Lindley said it is zoned MDR.

Mr. Hoff told Mr. Hinds the DRB handles variances a lot, and often they get long skinny parcels. He is okay with this variance because he doesn't think it will affect the character of the neighborhood at all. The lot conforms to

the zoning district. Are the topographical conditions exceptional? Maybe. It is built in conformity with the zoning ordinance and is a reasonable use. Variances in this city with the age of the buildings and the shapes of the lots are a challenge for the Board.

Mr. Cranse said for him it is a question of both the topographical considerations that Jack mentioned as well the physical circumstance of where the house is located. If the house had been built closer to the road, then they wouldn't need a variance in the back. That is not something that Mr. Hinds had any control over, and it is a physical circumstance and condition that would incline him to vote in favor of the application.

Mr. Hoff said this isn't a situation where the house could be pulled forward because of the topographical features.

Mr. Hinds said the house could have originally been built another 5 feet closer to the road.

Mr. Blakeman said what they have is the demographics of housing today. They brought up four kids in their house with 1 water closet. Today that is almost unacceptable in housing. Computers are now a "must" to have and they take up room so people want bigger homes.

Mr. Hoff said this seems like a conversation they have with just about every variance. He thinks this is something the Planning Commission needs to pay attention to. There are waiver statutes now that would solve a lot of these problems and allow this Board to create a function to adjust the setbacks on a per application basis. Here none of the neighbors have a problem with his addition. There is a cedar hedge along with a hill that keep privacy. It is not like he is encroaching upon an open back yard and other peoples' privacy and their use of the land. This is what the waiver statute was created for, to adopt bylaws of this nature, and because we don't have them yet is forcing us into this trap.

Mr. Lindley told Jeremy the Board has seen some drop off of variance requests as a result of the adjustments of the Planning Commission.

Mr. DeSmet said he has seen applications come in that have been expired that needed a variance or conditional use that now with the adjustment to the setbacks it was approved in the Planning Office.

Mr. Cranse moved approval of the application for a variance of 4 feet at the rear yard setback at 5 George Street. The motion as seconded by Alan Blakeman. The motion was approved on a vote of 5-0

VI. Site Plan Amendment and Design Review – CB-II/DCD
137 Barre Street
Applicant: Central Vermont Solid Waste Management District
Site Plan Amendment and Design Review for adding additional office
Tabled.

Mr. DeSmet said originally the application was for a change of use. When they got to the Design Review Committee they decided they weren't going to change the use so they don't need to come before the Board. They tried to submit updated plans mid week before the hearing. The Design Review Committee couldn't really review their proposal because they changed the scope.

Adjournment:

Upon motion to adjourn by Alan Blakeman, seconded by Roger Cranse, the Development Review Board adjourned.

Respectfully submitted,

Clancy DeSmet
Planning and Zoning Administrator