

**Montpelier Development Review Board**

**July 21, 2008**

**City Council Chambers, City Hall**

*Subject to Review and Approval*

**Present:** Philip Zalinger, Chair; Kevin O'Connell, Vice Chair; Alan Blakeman, Daniel Richardson, Jack Lindley, Jeremy Hoff, and Kenneth Matzner, Alternate.  
Staff: Clancy DeSmet, Planning and Zoning Administrator

**Call to Order:**

Philip Zalinger, Chair, called the meeting of the Development Review Board to order at 7:00 P.M.

**Review of July 7, 2008 Minutes:**

Mr. Blakeman moved approval of the July 7, 2008 minutes, with Mr. O'Connell seconding the motion. The minutes from July 7, 2008 were adopted unanimously 6-0, with Mr. Matzner not voting since he wasn't in attendance.

**I. Design Review – MDR/DCD**

2 Mather Terrace

Applicant: Carolyn and Daniel Desch

Replace 30 windows

Mr. Zalinger told the applicant since she has already been before the Design Review Committee and they recommended approval and provided with three options for window replacement. Ms. Desch said she was in agreement with the options

Mr. O'Connell moved approval of 2 Mather Terrace for the replacement of windows with the recommendations for three options proposed by the Design Review Committee. Mr. Richardson seconded the motion. The application was approved on a 7-0 vote.

**II. Variance Request – MDR**

92 College Street

Applicant: Harvey Golubock

Owner: Laura Rappold & Shawn Kasulka

Construction of a single car carport and wood shed within the side yard setback.

Mr. Zalinger administered the oath to Mr. Golubock.

Mr. Golubock said he is requesting for a variance from the 10 foot setback requirement so he can construct a carport. He originally had an application for a garage, but at the suggestion of Audra Brown he spoke to his next door neighbor who said she would object to a garage but not a carport. He wants it so he won't have to shovel his car out of the snow in the winter. He plans to put up on the side of the carport facing 94 College Street a trellis and plantings so it won't be unsightly. Right now there are several rows of trees between the two houses.

Mr. Zalinger inquired if the trees would remain.

Mr. Golubock replied yes. There are one or two trees that hang over which they will cut.

Mr. O'Connell asked what he was intending to use as the roofing material. He described a trellis on the side.

Mr. Golubock said right now the house has asphalt shingle roofing, and that is what he will be using. He will attempt to match that as closely as possible.

Mr. Blakeman asked if there was going to be room for a second car to park. Mr. Golubock said yes, if he pulls his car up to the end of the carport. There will be enough room for another car to pull up behind him and not block the sidewalk.

Mr. Matzner inquired if part of the parking area there now will not be covered. Mr. Golubock said actually none of it will be covered. It will be covered up to where the house comes. That is where the carport will start. Part of the current parking area will be covered by the roof.

Mr. O'Connell asked what the side road that intersects with College Street was. Mr. Golubock said Liberty Street.

Mr. Hoff asked if there were any other curb cuts on the property. Mr. Golubock replied no. This is the only place to park on the property.

Mr. Hoff asked if the width of the carport was one car wide. Mr. Golubock said yes. Mr. Hoff said the second car will actually sit outside the carport. He said one of the pictures shows two cars parked side by side, but the actual carport will only cover one car. Mr. Golubock said the distance between the carport and the road is 16 feet. He doesn't plan on pulling up the asphalt in place.

Mr. Zalinger said the rear corner of the carport is going to be 2' 8" from the property line. Mr. Golubock said that is correct. There is a side view elevation #1 of what the carport roof is going to appear to be. Mr. Zalinger said he is trying to determine how it is going to look from the roadway. Will there be a ridge pole that runs from the building to each of the corners so there will be 3 roof surfaces. Mr. Golubock said there will be just one roof surface that runs from the building back and that will be held up with poles. Mr. Zalinger said from College Street you will only see this line.

Mr. Zalinger inquired if he had purchased the house last Friday. Mr. Golubock said this coming Friday is the closing. He asked when the house was constructed. Mr. Golubock said in 1945.

Mr. Zalinger asked Clancy if someone in the MDR was going to construct a driveway similar to what exists at 92 College Street, would that require a variance? Mr. DeSmet said he didn't think so because it technically is not a structure. Mr. Zalinger said it a big improvement, though. He said from his perspective the house and lot Pre-exist the adoption of the zoning ordinance, but by itself the house is conforming. Mr. Golubock said the front setback is 16 feet to the house. Mr. Zalinger said it appears to him there is already a substantial improvement that is constructed in the setback that serves the same purpose as a proposed carport. Mr. DeSmet said the driveway does go through the setback.

Mr. Zalinger said if the carport is not going to cover the entire paved area and the right rear of the carport is going to be 2' 8" from the property line, have they paved on the neighbor's property? Mr. Golubock said there is no paving on the neighbor's property. Mr. Zalinger asked if the paving went right up to the property line now. Mr. Golubock said yes, the survey shows the paved portion all the way back to the property line.

Mr. Zalinger said this isn't working for him. If the width of the carport is going to be 14 feet from the side of the house and the stairs on the house are approximately 3 feet now, another foot to the car and the car is 8 or 9 feet, he is trying to picture in his mind where the column with the posts would be. Mr. Golubock said the property line is at a very severe angle, and that is what is causing the entire problem.

Mr. Zalinger asked what was the topography of the lot immediately behind the house. Mr. Golubock said immediately behind the house it is flat, and then it falls off steeply into a wooded area. The property line goes back into the wooded area. The survey picture shows there is 39 feet between the back of the house and the back edge of the lot. That is the distance between the back of the house and the back of the property line. That goes into the wooded area.

Mr. Zalinger asked if it was steep along Liberty Street as well. Mr. Golubock said it is sloping. It doesn't drop off where the back drops off.

Mr. Zalinger inquired if there was a deck or any other improvement to the back of the house. Mr. Golubock said there is nothing on the back of the house.

Mr. Zalinger asked if there was a basement door on the Liberty Street side. Mr. Golubock said there is a bulkhead door on the Liberty Street side of the house.

Mr. Blakeman asked if the woodshed was going to be a new structure. Mr. Golubock replied yes, on the back of the carport.

Mr. Blakeman asked if that was going to be in the 2' 8"? Mr. Golubock said it would be much narrower. The woodshed is 4' x 7'. The woodshed is not going to go over to the edge of the property line.

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

- a. *That there are unique physical circumstances or conditions, including irregularity, narrowness, or shallowness of lots 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 nor 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. Zalinger said he would observe that the lot and the house were created well before the zoning ordinance. It doesn't appear there is really sufficient room to put a garage on the lot and comply with the zoning ordinance in light of the topography to the rear of the building. The only place that is practical is to the north. Mr. Matzner said he would also like to add that the lot lines are not perpendicular to the frontage. It is an unusual shaped lot.

- 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.*

A one car carport with a width of 14 feet is a fairly modest enterprise. Having a garage type cover for your vehicle is a reasonable use of the property.

- 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. Zalinger said that is clear.

- 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, not be detrimental to the public welfare.*

Mr. Zalinger said this is consistent with the residential nature of that section of College Street. The Board has the applicant's testimony that the next door neighbor's failure to appear is evidence of there being no objection to the project.

- 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. Zalinger said anything smaller than 14 feet wouldn't provide the width necessary to both provide stairway access into the house and to cover a vehicle. Most parking spaces are 10' x 20' as a minimum.

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

The applicant is going to continue to use the property as a single family residence.

Mr. Matzner asked if Mr. Golubock had asked his neighbors how they felt about this. Mr. Golubock asked his neighbors the night before. The neighbor said she would object to a garage because the height of it would come close to her property. When he showed her what a carport would look like she had no objection.

Mr. Richardson said he wondered if the woodshed behind the carport should be considered separately and if §1006(B)(2) is applicable. It could be considered a part of a renewable energy resource structure. Mr. O'Connell said his understanding is that it is part of the application so it should be considered as one project.

Mr. Richardson asked why isn't the woodshed attached to the back of the main house. Mr. Golubock said it would be easier to utilize if it is attached to the back of the carport.

Mr. O'Connell said he would argue that a modest carport, such as this, is certainly a reasonable addition to the property, particularly considering that the applicant has made every effort to accommodate the neighbors' concerns and has not come in with a more substantial project and has stepped this one down significantly.

Mr. Hoff said he is more concerned about the integrity of the zoning regulations than he is about the neighbors.

Mr. O'Connell said they have debated this point at various times throughout the years, and there is never a solid resolution to it and never will be. He thinks it is at this point each member has to use their judgment.

Mr. Hoff said he would add, whether or not they consider it, that §1006(B)(2) would be met by the woodshed in its current location. He would consider this as a renewable energy resource structure because it is presumably for a wood stove as opposed to an oil burning furnace.

Mr. O'Connell moved approval of the application at 92 College Street by Mr. Golubock as proposed, with Mr. Blakeman seconding the motion.

Mr. Zalinger said there is evidence in the record that the face of the roof is going to be trimmed consistent with the house trim.

There is a motion. The variance was granted on a favorable vote of 6 to 1.

**Adjournment:**

Upon motion by Mr. Hoff, seconded by Mr. Richardson, the Development Review Board adjourned.

Respectfully submitted

Clancy DeSmet  
Planning & Zoning Administrator