

**Montpelier Development Review Board**  
**October 6, 2008**  
**City Council Chambers, City Hall**

*Subject to Review and Approval*

**Present:** Kevin O'Connell, Vice Chair; Alan Blakeman, Daniel Richardson, Jack Lindley, Jeremy Hoff, and Roger Cranse.  
Staff: Clancy DeSmet, Planning & Zoning Administrator

**Call to Order:**

Kevin O'Connell, Vice Chair, called the October 6, 2008 meeting to order at 7:00 P.M. Mr. O'Connell served as Acting Chair in Mr. Zalinger's absence.

**Review of September 15, 2008 Minutes:**

Mr. Lindley moved approval of the September 15, 2008 Development Review Board Minutes as submitted, with Mr. Blakeman seconding the motion. By a vote of 6 to 0 the minutes were approved.

- I.     5 High School Drive – GB/DCD/FP**  
**Applicant: Peter Evan/Montpelier Public Schools**  
**Owner: City of Montpelier**  
**Design Review for a storage shed**  
**Interested Party: Tom Sabo**

Mr. DeSmet said the Montpelier Public Schools would like to place a 120 square foot tool shed adjacent to their greenhouse and refrigeration center. They received Design Review recommendation approval with minor options as stated in the report.

Mr. O'Connell said the Design Review Committee gave them the option of using clapboard siding rather than rough hewn lumber. Mr. O'Connell asked Tom Sabo if he was familiar with the Design Review Committee's review and their option is recommending clapboard siding. He asked Mr. Sabo if they planned on using the optional change or using their original design. Mr. Sabo said they planned on staying with the original design.

Mr. O'Connell asked if this was replacing one of the old sheds. Mr. Sabo said this storage shed would be placed between the school and the greenhouse and a few feet away from the refrigeration unit.

Mr. Richardson moved approval of the storage shed for 5 High School Drive, with Mr. Lindley seconding the motion. The application was approved on a vote of 6 to 0.

- II.    77 Barre Street – CBII/DCD**  
**Applicant: Chad Hewitt**  
**Owner: Duplessis, Powers & Berndt**  
**Design Review for window replacement.**

Mr. DeSmet said last year Duplessis, Powers & Berndt came in and replaced about 15 windows. They realized they wanted to replace the rest, so they have come before us again.

Mr. O'Connell said the Design Review Committee is fine with the application as proposed.

Mr. Blakeman moved approval for the window replacements at 77 Barre Street, with Mr. Cranse seconding the motion. The motion was approved on a vote of 6 to 0.

**III. Conditional Use Review – LDR  
203 Country Club Road  
Applicant: John Biondolillo/George Gillander  
Owner: Montpelier Lodge of Elks #924  
Conditional Use Review for a change of use to office  
Interested Party: Matthew Hoare**

Mr. O’Connell administered the oath to John Biondolillo and George Gillander, Board of Trustees of the Montpelier Lodge of Elks.

Mr. DeSmet said by virtue of their location within low density clubs are not a permitted use. The Lodge of Elks of Montpelier would like to change the use to office, and low density office is a conditional use. That is why they are here tonight. There are no proposed changes to the site.

Mr. O’Connell asked if this would no longer be a lodge. What is the intention?

Mr. Biondolillo said the intention is the Elks would lease some or all of the building and allow the club to downsize. They don’t think it will affect any traffic patterns. If you look at that intersection of Country Club Road and Route 2 the traffic pretty well fluctuated from 10,600 cars going back to 1994. It was 11,000 cars in 2004 and 10,600 a couple of years ago. They don’t anticipate any significant increase in traffic.

The thing they are most excited about is they do have a potential tenant and they would be putting sprinklers in the building and upgrade it to a green building. The tenant is the Vermont League of Cities and Towns. They are considering a couple of other sites. This is the only site in Montpelier they are considering. It would be nice to keep them in Montpelier.

Mr. O’Connell asked how many employees would be there. Mr. Biondolillo said there are 56 full-time equivalents.

Mr. O’Connell asked how many square feet is intended to be devoted to the offices. Mr. Biondolillo said they are in the process of working on that now. Their estimate is that it is going to be between 10,000 and 12,000, depending upon how much circulation space is needed.

Mr. O’Connell asked what size was the entire building. Mr. Biondolillo replied it is 16,200 feet. Mr. O’Connell said the lodge would be downsized to about 4,000 square feet.

Mr. Hoff asked if it was correct they are requesting change of use for part of the building and not the whole building.

Mr. Biondolillo said they would like to have it changed for the whole building. The likely scenario would be that the Elks would stay there for some period of time in smaller space. They are also simultaneously looking at pursuing a zoning change which would allow the club to build a smaller building. As Clancy said, the club is not even a permitted use even though the club predates the zoning laws. Right now this is the important thing to have done. If the League of Cities and Towns needs to expand in the future, that will give the club the ability to basically move out and build another building.

Mr. Hoff said it is not the Board’s position to make sure they are going in with the full knowledge of the ramifications of the change they are making. The club isn’t a permitted use.

Mr. Biondolillo asked if he was saying if that got approved that the club would have to cease operation.

Mr. Hoff replied to the extent that they change the use of the building. It is going to become an office building and not a club.

Mr. Biondolillo said if they converted 12,000 of the 16,000 square feet to office, then it couldn't go back to club. Is that correct? Mr. Hoff said that was a possibility, yes.

Mr. Biondolillo said as long as the club can continue to exist there in some form. He understands they couldn't go from 4,000 back up to 8,000 if they do this.

Mr. O'Connell asked if the use of the golf course was intended to stay the same. Mr. Biondolillo replied yes.

Mr. O'Connell asked if there was anybody from the public who would like to be heard on this.

Mr. Blakeman asked Mr. Gillander if there would still be a restaurant available for reunions and meetings.

Mr. Gillander said no, he doubted it. If they ultimately downsize to 4,000 square feet they will not have the facility they have now. They have a 5,000 plus square foot lodge hall they hold a lot of functions in, and they would no longer have that part of the building. They would probably only be able to have a function with 100 people when they downsize instead of 300 plus people.

Mr. Richardson asked what is the size of the Elks' remaining property for the golf course. Mr. Gillander said it was 126 acres.

Mr. Blakeman asked Mr. Gillander if they would still have an office for the golf course. Mr. Gillander said the golf course has a little building in the back where you pay the green fees. That would still remain and be useable by the Elks for the pro shop and golf course.

Mr. Lindley said he is slightly confused at this point. They have approved the John Deere dealership. It appears to him in this application they are asking for 16,200 square feet to be converted to business. They aren't even talking about the country club or a function for 100 people here. If they are going to retain 4,000 square feet for a function of 100 people, then maybe they are only converting 12,000 square feet. Is that what they are talking about here in terms of the conversion of a conditional use review program?

Mr. Biondolillo said they don't know the exact configuration of how it would break down. They are still in the negotiating stage. They are going to need a little latitude in that regard.

Mr. Lindley said he didn't mind giving latitude but just needs to know how big the latitude is they are giving them. Mr. O'Connell told Mr. Lindley he shared his thoughts. He is a little concerned about the non-specificity as to what the DRB is being asked to approve.

Mr. Biondolillo said he could appreciate that. He is Chairman of the Development Review Board in his town and he knows how they are looking at it. It's a competitive situation with other properties in the mix and an undue delay would knock them out of the run to do the project. They are not trying to be evasive or anything. They are happy to come back when the plans are set.

Mr. O'Connell asked if it were possible they would want to convert the entire building to an office use and the Lodge go elsewhere. Mr. Biondolillo said not at this time, no.

Mr. Lindley said they didn't want to put him at a disadvantage. It seems they have two nonconforming activities. The country club is nonconforming, as it now exists, but it predated the zoning so they look the other way, but they can give them a conditional permit for either the whole building or part of it.

Mr. O'Connell said the problem as he sees it is this. If they give them a permit for the entire thing and it is going to be an office/business use, he would think because the entire thing is now conditional use for office use that the grandfathered use as a club would cease to exist.

Mr. DeSmet said the permit would last for two years. If they didn't do anything to change their nonconforming use they could exist as they presently are. The problem is that their use cannot go on in that area and they have a

larger space than they need. There is a potential tenant. One of the strategies they looked at was either changing "club" to conditional in LDR or changing the line. The Planning Commission didn't want to change the use and wanted to change the line. Changing lines and changing uses costs a lot of money. It also has to have several public hearings, including the Planning Commission and City Council. The only strategy the Planning Department could think of was to apply for a conditional use approval for an office.

Mr. Richardson said if approval is granted for conditional use for an office to the whole building, the applicant would have two years to convert the building to that use. During the two year period if they decided they didn't want to do that, then their current use would remain in effect. Mr. DeSmet said that is how he would interpret it.

Mr. DeSmet said prior to the expiration of a zoning permit upon written request they can extend it. That is the only strategy he could think of for this situation.

Mr. O'Connell asked if the Technical Review Committee had reviewed this application.

Mr. DeSmet said no because there is adequate parking, a public street and an existing facility. They are looking at it in the absence of a real use going in, but their only strategy is to make it attractive to some other type of use.

Mr. Cranse said he seems to him that it would make sense to request conditional use for a portion of the building.

Mr. O'Connell said there is nothing to say that once their plans are final they could come back and ask for a modification to what was approved originally, but it would give us something to move forward it.

Mr. Richardson said he is leaning towards the initial application giving it a two-year time frame seems to make the most sense. If the deal they are currently working on doesn't come to fruition, are they going to look for another tenant?

Mr. Biondolillo said the sense of urgency is for the Vermont League of Cities and Towns. There really is no other contemplated use going in there. They are trying to be as transparent as they can without eroding their negotiating position.

Mr. O'Connor administered the oath to Matthew Hoare.

Matthew Hoare asked if they would have to have an Act 250 permit since it is over 100 acres.

Mr. DeSmet said he didn't think so.

Mr. O'Connor said that is not something the Development Review Board has anything to do with.

Mr. Richardson said the District Environmental Commission would have to render an opinion. There may be triggers that would cause Act 250 jurisdiction and they may be able to avoid it by doing different things.

Mr. Richardson asked if there wasn't a question about water usage and the size of the pipe going up Country Club Drive that the fire hydrant was too small. Mr. Lindley said it had to do with the sprinkler system and whether they had the ability to have a dry system. Mr. Biondolillo said there is no sprinkler system in the building now.

Mr. Lindley said assuming they give conditional use approval, they still get a bit of the apple under site plan review at some point.

Mr. DeSmet said assume they give approval based on a fraction of the square footage, and then they make a deal with the League of Cities and Towns, and then the League would like to use actually more square footage than we have approved proportionately at that point there might be a site plan review. Right now there wouldn't be because it is an existing facility.

Mr. O'Connor said what if they approved the entire building and the League of Cities and Towns ends up using 12,000 square feet and 4,000 square feet is going to remain as a lodge, he would see that as a need for an amendment.

Mr. DeSmet said that is possible if it is no more than a 500 square foot.

Mr. Biondolillo said they know that some is going to remain a club.

Mr. Richardson asked Clancy when this was discussed in the Planning Department was there any understanding as to why "club" is not allowed or conditionally permitted in Low Density Residential zoning?

Mr. DeSmet said they talked about it. There is just the policy of nonconformity that once it goes away it is gone.

Mr. Richardson said he was curious in the drafting of these permitted uses and conditional uses that "club" was simply seen in low density residential.

Mr. O'Connor told Dan he thinks the thinking behind that was that some years back there was a club up on Northfield Street called the Brown Derby, and it had a bit of a reputation on the weekends. His speculation was to just not have clubs like roadhouses in Montpelier.

Mr. DeSmet said the Planning Commission talked about it a couple of times. They were worried about whether a gun club came in, or another kind of club. They were worried about the floodgate example, which he doesn't see happening. He evaluated this based on the existing facilities. There is already a public road, a large parking lot and the building is already there. He saw the golf course as a buffer from the residential area north of the golf course, so he just didn't see any adverse affect.

Mr. Cranse said in the definitions "club" is defined as a premise used by a group of people organized for a common purpose, membership qualifications, payment of fees and dues, regular meetings. That is a whole different entity from a nightclub. He doesn't understand why that would be prohibited.

Mr. DeSmet said that is why he thought conditional use was the best strategy.

Mr. Cranse said he wanted to ask Jeremy what his rationale was.

Mr. Hoff said his thought was that it is a hypothetical in front of them, and it is a business deal on the table. The applicant is coming forward and saying they have a potential tenant and maybe the deal will work and maybe it won't. If we give conditional use for the whole building, that is a tool the applicant has in negotiating. If the deal doesn't do through, the applicant has two years to say they don't want the permit and walk away and go on with the club use, which was his initial concern.

Mr. Cranse said that makes sense to him.

Mr. Hoff said they could come up with an arbitrary line and say 1,400 to 2,000, or give conditional use for the whole building at this point. Then, if they work it out and only need 10,000 square feet they can come back and amend it. Both Mr. Cranse and Mr. O'Connor said that made sense to them.

Mr. Richardson said they use the Elks Club now as a rental space. Is that correct?

Mr. Gillander said it is used obviously as an Elks Lodge, but because of the amount of space they have there is a full-time chef and cater to outside functions, whether they be a class reunion or wedding reception. They are able to handle functions up to 300 people. They would get out of that particular end of the business and be just an Elks Lodge serving their own membership because they would lose the commercial kitchen they have with this tenant coming in.

Mr. O'Connor asked when the building was built.

Mr. Gillander said the building was built in approximately 1965.

Mr. Richardson asked why wouldn't the remaining space be applicable as a community center, which is a permitted use, much like a Grange hall.

Mr. DeSmet said it might be.

Mr. Richardson said if they are cutting out the commercial catering business, then essentially what is remaining is a community center for the Elks to meet.

Mr. O'Connor asked what kind of usage the golf course has any given weekend during the summer.

Mr. Gillander said he didn't have a real number. Mr. Biondolillo said it is a 29-hole course so it limits the number of people who can be on it at any one time, anyway.

Mr. Blakeman said if they change the space to office use. Is it feasible to have 10 offices?

Mr. DeSmet said he supposed it would work. If they are requesting the entire square footage is converted to office use.

Mr. O'Connor said by this review the DRB isn't limiting what business or how many businesses could go in. They are simply providing the conditional use for business use.

Mr. Richardson said he thinks Jeremy's view has a definite benefit because it gives them what they want and there is enough potential in looking at the community center definition if they wanted to come back for an amendment. If the development falls through with the Vermont League of Cities and Towns and they are back to square one, they can throw out the permit. If the development goes through with the League of Cities and Towns, identify the square footage and they may very well come under the community center conditional use, and it is just a matter of amending the permit and coming back before the DRB. He thinks Jeremy's idea gives the Elks the flexibility to go forward with their proposal and be competitive with the League of Cities and Towns. It doesn't necessarily handcuff them to any particular limitation.

Mr. Lindley said the line for Low Density Residential is not on our maps. The building they are proposing, is it in low density or industrial?

Mr. DeSmet said it is in low density residential. Right now 99 percent of what the Elks own is within LDR.

Mr. Lindley said he also agrees with Jeremy. This is really the demise of the Country Club in reality. There is still 120 acres left out here in Montpelier, and it is in LDR. It is going to need some type of site plan at some point.

Mr. Biondolillo said he doesn't see it as a demise of the Country Club. It actually is going to put them on a better footing if they can consolidate them into a smaller space. What would be the demise of the Country Club would be to have approval for conditional use for the entire building to be office and then they come back and want to make a small portion to retain the club and the DRB would turn it down. That would be the demise of the club.

Mr. Lindley said the difficulty they would have is if they use all of the 16,000 square feet in the building as office and then come back for a new building in the LDR would mean the DRB would have to work awful hard to figure out how to do that without a zoning change or the reinterpreting of the definition of a "club."

Mr. Biondolillo said that is why they asked for some latitude on the square footage because they know they won't be coming back to the DRB to build a new building any time soon, if at all, particularly without a zoning change.

Mr. Lindley said if they do the full 16,000 square feet, and they retain 2,000 for the club, they are still going to have to come back to the DRB.

Mr. DeSmet said the potential tenant would come back.

Mr. Biondolillo said one of the facilities they are up against is a piece of raw ground, so there are some really tight timeframes in terms of them making a decision, going through the permitting process and getting through the winter to be able to build. To remain competitive they really need to get this permit.

Mr. Cranse said he understands that and he thinks that is in accord with their overall plan to encourage business development in the city.

Mr. O'Connor said at this point they are talking about the one building and not talking about some more substantive project which would require its own review, and most likely an Act 250 review as well.

Mr. Lindley inquired if this was a tax exempt building.

Mr. Gillander replied no. They pay about \$30,000 a year to the City of Montpelier.

Mr. O'Connor asked if the Board was ready to review the criteria.

Mr. DeSmet said if the DRB approves the 16,000 square feet and the Elks want to lease back part of it, they can't lease back the portion that is a club because a "club" is not allowed.

Mr. Cranse said they are able to function now as a club because they predate the zoning. If they do end up leasing 12,000 square feet to somebody, can they come back and have their application amended to 12,000 square feet?

Mr. O'Connor told Jeremy he was interested in what he had to say about this proposal. If the DRB approves the entire 16,200 square feet at this point, and there is the two-year clock for the permit, does the grandfathered use for use as a club disappear, or does that two-year window provide for some flexibility?

Mr. Hoff said he thinks the applicant is going to have to come back no matter what.

Mr. O'Connor said if the DRB is approving the entire building as office use, what happens to the club use? Does it essentially disappear?

Mr. Cranse said it goes into limbo.

Mr. Richardson said it is ongoing until they make an affirmative step.

Mr. Biondolillo said if they come back with a floor plan that shows 12,000 square feet, what is the Board's feeling?

Mr. O'Connor said they would look at that on its merits at the time it is submitted. The "club" use is what they would be amending.

Mr. Lindley said they have wiped out the definition of "club" with this conditional permit for 16,200 square feet.

Mr. Richardson replied that is correct, and he doesn't think that is what the applicant wants. Think of it as a building permit. You grant a building permit for two years for site review and then the developer goes belly up and the permit expires. It doesn't change anything. It is still raw ground and undeveloped. It's the same way here. We have just simply given approval and permission and a permit to act upon it, but until the change of use occurs it doesn't carry that weight.

Mr. Hoff said until someone signs the lease to have office space the use doesn't change. The permit itself doesn't change the use. It just gives the authority to change the use. He thinks granting approval for conditional use of the whole square footage is the end of the conversation. Unless they get a deal where they want all 16,000 square

feet, or what is going to happen they will agree on some square footage number and come back to the DRB and amend the application and keep 3,000 in club use and 13,000 will be used for office space.

Mr. Richardson said that may require something as easy as administrative approval for changing the square footage.

Mr. O'Connor said the Board should focus on the proposal as it is before the Board, which is for the entire building. What the applicant needs now is to move forward with the next step and worry about the subsequent steps when they happen.

The DRB reviewed the conditional use criteria.

#### **Conditional Use Criteria - §304.D**

1. A conditional use may be approved only if the DRB determines that the proposed use does not adversely affect the following:
  - a. The capacity of existing or planned community facilities;

The project, as proposed, is potentially 56 employees and at some point there should be a technical review of this project. Mr. Richardson said he would say the demand for 56 office workers wouldn't exceed that of a 300-person function and a golf course. This would be daytime use whereas the club activities are off peak and often evening events. The golf course would be used the heaviest on the weekends. Mr. O'Connor said the one concern he has is they indicated part of this project would be an upgrade and involve the installation of a sprinkler system. He seems to recall that Tom McArdle had raised an issue about the water and whether or not the pipe was the right size and capacity for that. Mr. Richardson said it wasn't that the pipes weren't big enough for a sprinkler system. It is that the hydrants weren't big enough. Ms. DeSmet said it was for the Harvest Equipment project, which is an industrial use, which requires more water. That would be an issue they would run into with the building department if they are going to change the use and install a sprinkler system. If there is not enough capacity, they have to figure out a way to do that. Mr. Biondolillo said that would come from the Department of Labor and Industry. Mr. DeSmet said the hydrant was actually a little closer to the Lodge than it was to the property the Elks subdivided.

- b. The character of the area affected, as defined by the purpose(s) of the zoning district within which the project is located, and specifically stated policies and standards of the Montpelier Municipal Plan.

Mr. O'Connor said that since this is a conditional use for the district in which it is proposed and there is a buffer provided by the golf course between the proposed office space and the residential uses of the area, he thinks the mitigating effect of that buffer would minimize the character issues. Mr. DeSmet said the goal of low density residential is to be non-intensive, but there is already an existing 16,000 square foot building and parking lot.

- c. Traffic on roads and highways in the vicinity;

Mr. O'Connor said they have discussed that to some degree. 53 or 56 employees would make 100 plus trips in and out with full staffing. The parking lot certainly has enough capacity and circulation on the site is pretty well developed. Mr. Richardson asked if Mr. Biondolillo knew how many car trips would be involved if this building were converted to office space. Mr. Biondolillo said there are 56 full-time equivalent employees and between 6 and 8 guests per day is what they told him. The traffic counts would be in the area during 1987 was 9,500; in 1998 it was 10,400; in 2002 it was 10,600; in 2004 it was 11,000; in 2006 it was 10,600, so it is pretty little in the scope of traffic. That is between Country Club Road and Gallison Hill. If you go to the other side of Country Club Road, between the Elks and Agway, the trips are varied. It was 14,400 in 2002; 12,100 in 2004; and 11,700 in 2006, so it was actually going down. He personally doesn't see any impact from this on the traffic. Mr. O'Connor said the League of

Cities and Towns does have workshops. Would they be occurring at this site? Mr. Biondolillo replied they haven't determined that yet. There is the possibility there could be some workshops, but typically those are between 25 and 75 people. Mr. Gillander said the League of Cities and Towns currently rents space from the Elks when they have some of their workshops, so they will probably delineate some space for that purpose when they have possession of the building because they don't have any facility for that now in their current location at City Center. Mr. Lindley asked what were their thoughts about performance standards relative to lighting in the parking lot. How would they change that from what exists? Would they be increasing the lighting? Mr. Biondolillo said their whole mission is to be as much a leads type building and using efficient energy and environmental design. They are very cognizant of that. They don't believe they are upgrading the lighting in the parking lot. Under the performance standards it clearly needs to be addressed under §714 relative to lighting. Mr. O'Connor inquired what the current lighting is at the Elks. Mr. Gillander said there are two lights in the parking lot. There is one light when you get right at the top of the hill past the fire hydrant and there is one at the far end of the parking lot. Mr. Lindley said that probably isn't adequate for 56 or 60 employees that have to go out of work at 4:00 P.M. when it is dark. They aren't playing golf in the dark. Mr. Gillander said they have club functions there all of the time, and have had for 40 plus years, with the same lighting. Nobody has tripped and fell in the parking lot because of lack of light. Mr. Biondolillo said their testimony is going to be that the lighting is going to be equal to what is there or less intrusive. Mr. O'Connor said any change in the existing lighting would require site review. Mr. Cranse said in terms of this application and looking at §714 the only determination the DRB has to make is not what they might do but if the existing light emits or reflects light which creates undue glare. That is what they have to consider. Mr. O'Connor asked if the lighting is on all of the time in the evening, or is it just on as needed? Mr. Gillander replied the lights are on all of the time. They are the mercury vapor lights and come on automatically.

d. The Zoning and Subdivision Regulations in effect; and

e. The utilization of renewable energy sources.

The Board always says this doesn't apply, but it sounds like they are intending to "green up" this building. Mr. Biondolillo said everything is going to be low use fixtures. Right now the building is not even insulated. Basically, they are going to try to make it a green building. Mr. DeSmet said potentially there would be site plan review of those changes. Mr. Richardson said he would think the site plan review criteria, §306.B calls for site plan when use is established, expanded or modified. Given the information they have now that they are doing conditional use, and understanding that almost anything they do will probably trigger site plan review. Mr. Biondolillo said he thinks the Board will be very pleased with what they are trying to do. Of all of the people he has worked with over the years they are really doing a nice job.

2. Area affected. the DRB shall consider the following when determining whether the proposed development will adversely affect the character of the area:

a. The performance standards (§714).

They talked about the performance standards and lighting is part of that. The Board is competent that once the building plan is actually final that there will be a site plan to review.

b. Site plan review standards and approval conditions in §306.C;

c. The cumulative impact of the proposal's failure, if applicable, to fully satisfy each of the conditional use standards in §§ 304.D and 712;

Mr. DeSmet said §§ 304.D and 712 are general review criteria.

d. The noise generated per unit;

That is something the Board would look at during the site plan review.

e. Any other factors judged to have an adverse impact on the area.

Mr. Hoff moved approval of conditional use review at 203 Country Club Drive as proposed, with Mr. Cranse seconding the motion. The motion was approved on a vote of 6 to 0.

Mr. O'Connor said it looks like all of the DRB's other business has been tabled, withdrawn or denied.

Mr. Richardson said the application for 41 College Street was denied by the Design Review Committee. They chose not to take it up. Mr. DeSmet said Mr. Bean didn't seem like he wanted to pursue trying to receive a favorable opinion. Mr. O'Connor said it is his prerogative because the DRC is advisory.

Mr. DeSmet said it was a project that was really difficult. It didn't fit into the §305.F criteria.

David Grayck, a resident of 57 College Street, said he was here because of that. He didn't know it was denied. He is an abutting neighbor. He came because they had received notice of the hearing and he has not received any communication that indicates that the application has been withdrawn. His understanding is that a Design Review Committee determination is not a binding determination on the merits of the application.

Mr. O'Connor says it is not. As it stands now, being that it has not been officially withdrawn, it is still an active application because the Design Review Committee is advisory.

Mr. Grayck said he would like to know if the applicant has requested that the application be withdrawn. Have they moved to continue to hear it at a later date? What is the status of the application?

Mr. DeSmet said the applicant hasn't contacted the Planning Department either way. He indicated at the hearing he might come back with a different design.

Mr. Grayck asked if the Board would be acting on the application as if it were before them.

Mr. O'Connor replied no, they certainly aren't acting on it this evening. By the fact that the application is still active it could potentially come forward.

Mr. Grayck said he would simply ask that since the DRB isn't denying it and keeping it under pending review type status that its potential it will come back for a later hearing date in which case he would like to receive written notice of that hearing date. He would also like to have it noted in the record that he was present and participated.

Mr. O'Connor told Clancy it would be useful to the Board and the neighbor to have a little more specificity about the application. Mr. DeSmet said he would call Mr. Bean tomorrow and see how he would like to proceed.

**Adjournment:**

Upon motion by Jack Lindley and Jeremy Hoff, the Development Review Board voted to adjourn on a vote of 6 to 0.

Respectfully submitted,

Clancy DeSmet  
Planning and Zoning Administrator