

**Montpelier Development Review Board**  
**November 17, 2008**  
**City Council Chambers, City Hall**

*Approved*

**Present:** Philip Zalinger, Chair; 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:**

The November 17, 2008 meeting of the Montpelier Development Review Board was called to order by Philip Zalinger, Chair at 7:00 P.M.

**Review of November 3, 2008 Minutes:**

Upon motion by Mr. Lindley to approve the November 3, 2008 Minutes as printed, seconded by Mr. Blakeman, the minutes were adopted on a 7 to 0 vote.

**I. Site Plan and Design Review – CIV/DCD**

7 Baldwin Street

Applicant: Randall Contracting

Owner: Ralph and Sharon Gerlach

Construct seven parking spaces on Terrace Street

Interested Parties: Ken Randall, Randall Contracting

Craig Benson, Property Manager

Mr. Zalinger explained the DRB's usual procedure is to proceed without asking the applicant to go through evidentiary issues and questions that had already been considered before the Design Review Committee, but in light of the turnout of folks who are adjoining property owners and neighbors he doesn't think the Board can avail themselves of their standard customary procedure.

For evidence taking purposes he would like to ask anyone who wishes to be considered an interested party the DRB needs their name and address entered on the roster. If they wish to speak tonight during the hearing he needs to administer the oath. Mr. Zalinger administered the oath to interested parties.

Mr. Zalinger asked if there were any folks present who have concerns with the design review elements of the application. He asked Clancy DeSmet to identify what design review issues there may be involved.

Mr. DeSmet said originally the applicant proposed a metal and wooden guardrail. The Design Review Committee recommended they make an adjustment and just put curb stops of a concrete or wooden material instead of a guardrail to stop cars. In addition, individual parking signs no larger than 6 inches by 12 inches can be mounted on wooden or steel posts demarking the parking spaces. There wasn't actually much further Design Review Committee to consider. It was approved unanimously.

Mr. Zalinger asked if there was an element of the design review aspect of this application that folks who are present have a concern with.

One of the members of the public asked Mr. Zalinger to explain the differences between design review and site plan.

Mr. Zalinger explained that site plan has to do with traffic and circulation and the safety issues that derive from that. Primarily, it has to do with the layout of improvements on the site. It is more physical. Design review, because 7 Baldwin Street is in the Design Review District, the visual and aesthetic elements of the project are also subject to review. They arise in different locations in the ordinance. There are a different criteria and standards under which we have to assess them. In this instance, the design review element was the introduction of guardrails across the Terrace Street front of the Baldwin Street property, which has a design review element.

Where the parking is located is a site plan issue. How the parking is created and signed and executed have design review elements. If the Design Review Committee was unhappy or suggested an alternative to approximately 80 feet of guardrail across the face of the property, and as an alternative the Design Review Committee suggested that a granite, concrete or wood curb stop with individual parking signs be implemented.

A member of the audience said he was confused between what sounds like a very benign decision around guardrails or curb stops versus the "it." What is the "it" here? Is it a parking lot? He has heard there are going to be 6 spaces and he has heard 8 spaces.

Mr. Zalinger asked if there were any folks present who have concern with the design review elements of the application separate and apart from the "it" of the parking area.

An audience member said he believed they were present for the site review mostly, although the aesthetics of this design he would like to comment more on that.

Mr. O'Connell asked what the building is used for.

Mr. Randall said it is essentially a Victorian house that is now commercial office space. It is all office space with no residential.

Mr. Zalinger said they could spend months here arguing about the shape of the table. The Board will review all of the design review elements and all of the site plan elements. They will do it separately because there are different criteria.

Ken Randall from Randall Contracting said they were asked by the owners Ralph and Sharon Gerlach to renovate the existing building that was once owned by Washington County Mental Health. They purchased it last May. They went through the building and did a complete renovation, brought the building up to code in all areas, including electrical, plumbing, sprinkler system. The owners have put a large amount of funding into the building to make it a nice office space for the area. In doing so they realized there was going to be a need for more parking because it is so congested during the Legislature and in Montpelier in general to find parking. They noticed back about 8 years ago it had come up for a parking space off Terrace Street when Washington County Mental Health had it. The permit had not been followed through. They had applied for it. They reviewed it and thought it was a very good idea for the office space. That would allow more parking.

What usually happens during the winter time when the Legislature is in session they will park right in front of the entry way. That is why they have come before the Board to request that it be allowed to put more parking off of Terrace Street. They have talked to Tom McArdle. When they first sat down with this last spring, they wanted to see a topographical map showing elevations. Through the summer they had Wayne Lawrence do a topography map and space it. They decided that instead of going straight across with 9 parking spaces they eliminated 2 and left the trees there to break it up a little bit, which makes it 7 parking spaces. They brought it away from the right-of-way 20 feet so a car can turn around, back up and not go into the right-of-way to travel or to leave the area.

Mr. Cranse said the application says there are 8 existing parking spaces. Where are they?

Mr. Zalinger said the building front is on Baldwin Street. There is parking from Baldwin Street to the right towards the garage.

Mr. Zalinger made aware that everyone knew he was an attorney and represents Washington County Mental Health Services, and he represented Washington County Mental Health Services when the transaction occurred. He doesn't think it impacts upon his ability to be impartial in this matter. Washington County Mental Health has no further interest in the property. He said he would continue to sit unless there is an objection.

Mr. Zalinger asked Clancy if the project complied with the parking requirements.

Mr. DeSmet said he didn't know that exactly because the last time they had a review it was for design review approval only, so he didn't get a proper accounting of the amount of office space.

Mr. Randall said the first two floors are approximately 2,000 square feet each.

Mr. Zalinger said they would have to know how many parking spaces there are presently.

Eric Gilbertson of Richardson Street asked if the square footage included the garage.

Mr. Randall said it is rather stacked, 2,100 for the first floor, 1,800 for the second, and 900 square feet for the third floor.

Mr. O'Connell said he believed the existing parking is integral to the site plan and design review. He would like to see those spaces on the site plan. It is difficult for the Board to make a determination as to what the total impact is with just a blank space there. When he looks at the aerial photo he sees a paved lot. Mr. Randall is testifying there are 8 spaces there, and he would like to see how they are arranged on the site plan.

Mr. Zalinger said the Board would like for him to submit a site plan that depicts the area that is dedicated to parking and how many functional parking spaces there are as well as the information that pertains to square footage of the building.

Mr. Zalinger asked Mr. DeSmet if the renovations of the building were permitted. Mr. DeSmet replied yes.

Mr. Zalinger asked if there was any inquiry necessary to determine the number of spaces necessary for that use.

Mr. DeSmet said they weren't expanding or intensifying the use. They were using existing floor space so it was only design review. They were changing windows and roofs and egress.

Mr. Gilbertson said he believes there is more square footage because they converted the garage into office space as part of this project, so that would change the square footage.

Mr. Zalinger said there was also a permit that was issued and they will review the permit. It is fair to point out that whether all of the permits are or are not in place for the existing use are different questions and different issues than design review of what is proposed off Terrace Street and site plan review for what is proposed off Terrace.

Mr. Zalinger said under design review the statute says:

*“The Design Review Committee and the Development Review Board shall evaluate design review plans based on the following considerations:*

- ✓ *Preservation or reconstruction of the appropriate historic style if the proposed project is in the historic district or involves an historic structure.*
- ✓ *The harmony of exterior design with other properties in the district.*
- ✓ *Compatibility of proposed exterior materials with other properties in the district.*
- ✓ *Compatibility of the proposed landscaping with the district.*
- ✓ *Prevention of the use of incompatible designs, buildings, color schemes, or exterior materials. This may be what the Design Review Committee had in mind when it concluded that the use of guardrails was inappropriate in the area.*
- ✓ *Location and appearance of all utilities.*
- ✓ *Recognition of and respect for view corridors and significant vistas, including gateway views of the city and the State House.*
- ✓ *The design standards established in 604.a for development within the office park district and in the river front district. None are applicable in this instance.*

Those are the design review criteria that the DRB is charged with implementing

A member of the audience said it sounds like most of the development is going to be on the other side, but the one question is that a broad reading of #1 would be whether we are preserving the way a district is used and what kind of activities are permitted. They are talking about long term encroachment of commercial and office activity in a residential area.

Mr. DeSmet said the objective of the Civic District is exactly what this building is, an office building.

Mr. Zalinger said they are talking about style as opposed to use. The comments are applicable to site plan and the functionality of it.

An audience member said the third point had to do with view scapes. It is actually not interfering with the viewscape but protecting the lack of viewscape. The residential area is very well insulated by the trees and the brush that are going to be removed and the parking places will then create a warped view. That is what is creating the problem.

Mr. Richardson said he understands the #7 criteria to be more limited in scope. It doesn't have the word preservation in it. It is for projects that involve what would be considered significant vistas, such as erecting a building that would block a gateway view to the city and the capitol dome. The people would see not necessarily giving shelter and protection to individual views of the city. There has to be some greater component to it.

Mr. Zalinger said the Design Review Committee considered these criteria to be not applicable.

An audience member said it was a buffer and protection against the noise of the highway and Main Street.

Mr. Zalinger said he tends to agree with Dan Richardson. To his mind it's a stretch to take design review criteria which is generally used and employed for the construction of structures or buildings. It's a shield to protect and preserve view corridors and significant vistas in the broad community rather than as a use consideration for individual property owners to object to a design. If it were a three-story building that was going to be constructed there and you had a vista of the State House you wished to preserve, that would be subsequently different than suggesting that the trees protect others from viewing your property. That sort of turns the criteria on its ear.

Mr. Zalinger asked how the Board wanted to proceed with design review.

Mr. Cranse said the DRB rarely does design review with this Board. They generally accept the recommendations of the Design Review Committee. They are quite expert in this area, and he doesn't feel that way at all himself. With the great majority of cases the Board accepts their findings because they are the experts. He doesn't feel comfortable with going item by item with the design review.

Mr. O'Connell agreed with Roger.

Mr. Lindley said they should accept the work of the Design Review Committee recommendations with regard to this site.

Mr. Zalinger said they are also not obligated to make a decision this evening. The Board can take evidence and take it under advisement, have deliberative sessions, discuss it and issue a decision as the Board has done in the past many times.

Mr. Richardson said given the nature and expected contention for site plan review he would propose the Board take this under advisement. He would also echo the sentiments of the other Board members that often we defer to the Design Review Committee on their specific findings unless there is compelling evidence presented that would cause the Board to disregard or doubt the Design Review Committee's findings.

Mr. Zalinger asked if all of the members were in agreement that they would take this under advisement. To members of the audience who are present and interested in the matter, the Design Review Committee, it is the essence of their decision that there be no guardrail installed. Instead a curb stop made of concrete or wood timbers are to be installed as a way to stop the traffic or the parking. Individual parking signs approximately 6 inches by 12 inches to be mounted on individual steel or wooden posts.

Mr. Zalinger asked if anyone wanted to ask any other questions about the design elements of the application.

A member of the audience said she understood that the chair was only clarifying that the Board was going to take design review under advisement and render a decision at a later date, and then move on to the site planning.

Mr. Zalinger replied that was correct. He wanted to make clear that although it may come up again during the course of the site plan review they are departing from the Board's design review jurisdiction and move to site plan.

Site plan review – there is an applicable statute in Title 24. All development involving nonresidential and multi-family uses shall be reviewed by the DRB to a) assure the project's compatibility with its location and the Montpelier Municipal Plan; b) promote the highest quality design for such development; and c) to prevent and/or mitigate potentially negative impacts resulting from the development. There are some procedural elements in the statute about how applications are submitted and how the review is to be initiated, what the contents of the application are to include. There are also pre-application conferences between the Technical Review Committee, which is the Department of Public Works and other fire and safety personnel from the city, the zoning administrator and the applicant. Then, we get to review. The application procedure is set forth, submission requirements are set forth.

The review standards and approval conditions:

The DRB shall consider and may impose appropriate conditions and safeguards with respect to the adequacy of the following:

1. Streets
2. Pedestrian access and circulation
3. Vehicular access and circulation
4. Parking
5. Loading
6. Landscaping
7. Outdoor lighting
8. Signs
9. Performance standards which have to do with the emission of smoke and noise
10. Site protection and design
11. Excavation and filling
12. Public sites and open spaces
13. Water supply
14. Sewage disposal
15. Storm drainage
16. Utilities
17. Provisions to protect the utilization of renewable energy resources.

Even the most partisan of those here attending would concede that some of those are not applicable.

A member of the audience said she was here tonight to protest the placement of the ingress and egress to the parking lot off Terrace Street due to the configuration of the many streets in that area and narrowness of those streets. Her concerns are for safety and enforceability. Justice Marilyn Skoglund said she has lived at the top of Richardson Street for 25 years. It's a very narrow street. You can get two cars past it during the summer months. On one occasion her neighbor needed an ambulance in the middle of the winter when there was snow. She

watched the most amazing display of coordination between the Police Department, the Fire Department and the EMTs to get the ambulance up that hill, which include shutting down the traffic by the Police Department at the bottom of Richardson Street. When the Legislature is in session the city puts up "Do Not Park" signs; that's all they do. People who are using our streets to park for access to the State House have long since learned that these signs mean nothing. There are days when she could barely get her car past all of the cars parked on the sides of the road. If the city would ticket and tow she would not be as annoyed, but they don't. To think of adding 8 parking spaces, or even 6, is not simply a space issue. It is an issue of increasing the traffic on what is already a nonconforming street size. If you think of it in terms of zoning, when you have a street that has been grandfathered in because it is so narrow – all of Terrace, Mather Terrace, Chapman Street and Richardson Street – you couldn't possibly have a thought of approving a subdivision site with streets of this condition. They are grandfathered in because they have been there for over 100 years. It is her understanding you don't add use to a nonconforming structure. In her opinion it is a safety issue to have the access to this parking. It's not the signage. It's not what color the posts are going to be, or what color the line striping is going to be. It is the access from Terrace Street that concerns most of the neighbors here. To put that parking lot with the access on Terrace Street would be ill advised and dangerous.

Mr. Zalinger said the essence would be the addition of 8 more vehicles using that area for parking will point out the inadequacy of the streets to handle that volume.

Ms. Skoglund replied indeed, and also if we can't control the parking during the legislative session what makes anyone think people are going to abide by the little signage that might be put on the 6 parking spaces. Knowing people get as annoyed as she does when people park in a designated spot, it will start backing up and blocking people in. The street is only wide enough for two vehicles to pass. In the winter if you can only get one vehicle there no emergency vehicle is going to reach her house.

Mr. O'Connell said as a point for clarification the application is for 7 parking spaces.

A member of the audience said he had some pictures taken with the snowbanks. There are a lot of children on their street. When you look at those pictures he wants the Board to think about children walking from their houses down that street to the bus stop and thinking about no sidewalk and having to walk on the streets in that condition and you might understand why they are a little concerned. When the Legislature is in session it is already chaotic. There are people zipping by their street already as an outlet to get up from the lower level parking lots. Adding 7 more parking spaces is just pushing it way further than it already is. The street needs to be fixed as it is.

Mr. Richardson said their concern is that already there are cars that are parallel parking along Terrace Street.

The audience member said he is talking about the street when there are no cars parallel parking. It is basically one lane with the snowbanks – 1 ½ lane.

Mr. Richardson asked if there was reason not to think that if the 7 spaces were added they would discourage parallel parking, because there would be a private party with a vested interest in removing any illegally parked cars, as well as it would decrease the traffic on Terrace Street because it would discourage these illegally parked legislators from going up there because they would know there is less space available on Terrace Street.

An audience member said Richardson Street is perpendicular and it was so bad people would slide down and hit each other because they were trying to push in. They don't care. They are in a hurry to get to the State House. They are going to park on that side of the property and the whole thing is going to be a bigger nightmare than it currently is. If you add snowbanks in, it is not going to make a difference. It is lobbyists and other people who need to get into the State House, and they don't care. They just park like they own the street and race off to the State House.

Chris Hancock, a resident at 1 Hopkins, said if you take that distance, roughly the width of two properties from the proposed spot you have 4 houses with more than 2 kids each – a 3 year-old, a 4 year-old, a 6-year-old, a 7

year-old, an 8 year-old, an 11 year-old, 4 12 year-olds who live within 100 yards of that location. For many of them the school bus stop takes them past this location. The point he wants to make is not about the parking. Interestingly, there is a half a year when they don't have that parking problem when the Legislature is not in session at which time the street feels relatively safe and they are comfortable having the kids out. He is concerned about the traffic. There is quite a blind corner where Hopkins comes up on to Terrace Street. There are no sidewalks there. He thinks there is a serious safety issue.

Mr. Hoff asked if the building was occupied presently.

Mr. Randall replied yes.

Mr. Hoff asked what was the nature of the business that is in there.

Mr. Randall said several of the offices are essentially consultants and accountants.

Mr. Hoff asked if there was a lot of traffic coming and going.

Mr. Randall replied no. Mr. Hoff asked if the spots that are proposed would be designated for employees or for visitors. Mr. Randall said they would be employees coming in the morning and the car would stay there for the duration of the day because the spaces down towards the building are for use by any clients that might come in or out.

Mr. Lindley asked what was the distance between the garage wall and the property line. How many feet are there?

Mr. Randall said there was about 8 to 10 feet. There is a pine tree right at the property line.

Phil Fernandez of 5-7 Terrace Street asked the applicant why he couldn't get his parking access off of Baldwin Street. It looks like quite a wide area where they could get the cars off of Baldwin and create the parking versus coming into a residential neighborhood and coming off Terrace Street.

Mr. Zalinger told Mr. Fernandez that they are bound by the project submitted to the Board. Mr. Randall is the contractor for the owner. His inquiry into their motivations and theories about redesigning the project would keep the Board here much longer than is necessary because the applicant's representative can't modify his plans on the fly.

Leigh Seddon, a resident at 13 Bailey Avenue, said the project is going to have a significant impact. He has lived there for 32 years and watched a whole generation of kids grow up and a new generation of kids come in. He believes the project is going to impact the neighborhood and be dangerous for them. It's not the right site design for building parking. There is plenty of possibility of doing parking in back of the building, as was done three houses down by the state, and bringing access off of Baldwin which is a commercial area. Maybe legally they can't consider that, but that is the crux of the matter. It is a poor design for building parking on that property.

Mr. Seddon said for the last 32 years he bought his house knowing he was on the edge of the Capitol District and the state had a plan for a double-lane road right through his living room to connect to the Capitol. He was worried about that in 1976. But for the last 30 years the Terrace Street neighborhood has retained its residential character. The Baldwin Street neighborhood has been sensibly developed by the state but as a commercial office space and the two have remained separate. That has been an amazing accomplishment he feels that has happened to preserve the Terrace Street neighborhood.

An audience member said she would imagine that the DRB would receive some written comments from the Fire Chief as to whether he felt that this would be limiting his ability to get through.

Ben Doyle, a resident at 16 Terrace Street, said they don't have a parking space so they are forced to park on the street. In the winter time they rent a space or find a space to park. If there is increased traffic he doesn't want anybody hitting his car. He is worried about the fact that it might just limit in the future his ability to park in front of his house, which he thinks he should be able to do.

Eric Gilbertson, a resident at 7 Richardson Street and also a member of the Design Review Committee, said he wants to be clear that his comments are as a resident of the neighborhood and not part of the DRC. Leigh Seddon and he have lived in the neighborhood about the same amount of time. A couple of things have changed in that neighborhood. One is Terrace Street is the only really reasonable direct access out of Richardson Street. There is also a lot of pedestrian traffic that goes through there as people walk to work from Bailey Avenue and Clarendon Avenue. That is exacerbated by the fact that this is at the crest of the hill where the sight is really poor in terms of meeting cars. If it happens that cars meet and a pedestrian is there, somebody really has to hit the brakes. Even if this is just used by employees and they operate under normal office hours is also in the pedestrian traffic in the neighborhood. Any of the turning and backing movements that are going to take place in this lot are going to make a situation that isn't great now a lot worse.

Mr. Randall said he would like to make the point that snow removal is going to be taken care of. Working there for a year through the winter he has also witnessed the snowbank and the narrowness. This is going to open that area up substantially for visibility because the snowbanks will be gone. They will have to be removed. The city plows it down and pushes right onto the Gerlachs property. It is going to open that area up. They are going 20 feet deep so that cars have their turn around.

Mr. Zalinger said based upon the design what would Mr. Randall approximate the distance from the rear of a parked car to the edge of the city's paved right-of-way to be?

Mr. Randall said as they have proposed it, it is suggested that 8 would be appropriate.

Mr. Zalinger said if they could get to criteria 2, they might understand that some of their comments have grown far beyond the adequacy of the ability of the city's streets to support this project. Criteria 2 is pedestrian access and circulation.

Mr. Richardson asked Mr. Randall what he envisioned as the circulation pattern on the site as far as people using the parking spaces getting to his building. He doesn't see any proposed route on the site plan.

Mr. Randall said the proposed route is not necessarily included on the site. For the brave of heart during the summer months it is a lovely walk through the woods, but watch your footing when there is any snow around.

Mr. Cranse said in Section 707.c it states where any nonresidential district abuts a residential district the parking and/or loading spaces shall be no closer than 15 feet to the property line abutting the residential district, and the spaces shall be screened and landscaped. Does that apply to this application?

Mr. DeSmet said he thinks it doesn't apply because of the actual demarcation of the two districts as the street whereas if it were somewhere abutting a residential neighborhood directly by the property it would require 15 feet. That was his initial interpretation. He consulted with Public Works and Tom McArdle concurred with his determination so there wouldn't be a 15 foot buffer.

Mr. Blakeman said he walked up into the neighborhood on Saturday and Hopkins Street has no sidewalk plus visibility is not at all good.

Mr. Zalinger asked if there were any further comments about pedestrian access and circulation.

Timothy Flynn, a resident at 4 Mather Terrace, and has been a resident for 26 years. It is really a dangerous spot. Somebody talked about removing snow, but the city can't figure out how to remove the snow from that corner. It

just piles up. The snowbanks at the corner of Terrace and Hopkins Streets are always there, and it is just an unbelievably dangerous spot. If you go there in the winter you wouldn't want to put more parking there.

Mr. Zalinger said it is interesting to hear about how dangerous and fraught with peril this neighborhood is that you have lived there for 30 plus years. The peril is not driving folks away.

Ann Aspell, a resident at 13 Bailey Avenue, said in terms of pedestrian traffic that Hopkins Street in the winter is incredibly slippery.

Ms. Skoglund said the reason they have all lived there for 25 to 35 years is because it is a very isolated private place which also goes to one of the criteria that is coming up.

Mr. Gilbertson said somewhere in criteria 2 he wants to emphasize the heavy pedestrian use that comes through there. It is very heavily used by a lot of people, including a lot of school kids because the school bus stop is right where Terrace Street crosses Bailey Avenue.

Mr. Zalinger said criteria 3 is vehicular access and circulation.

An audience member said Terrace Street is quite a lot higher than Baldwin Street which lends to the nature and the privacy and shielding as well as the character of the neighborhood. It is very hard for him to accept the comment that there is no barrier because the street is there. The barrier is in part created by the height above Baldwin Street and the trees that are there. Why can't the parking be elsewhere on that property? Why does it have to be on Terrace Street? It does add to the traffic and the peril of the pedestrians.

Mr. Gilbertson said they have 8 feet between the edge of pavement and the back of the cars. Those cars are not going to be able to back out of there without backing into the street. They are going to be pulling into the street at an angle where the site line from any car is not very good. He believes that relates to criteria 3.

Mr. Zalinger asked Clancy if the Technical Review Committee was heard on that issue.

Mr. DeSmet said he and Tom McArdle actually went out and did some measurements on the site. Mr. McArdle said it is not an ideal design for a parking area. Normally you would want a throat so a car could turn around. Phil Fernandez's property has a throat and the cars can turn around and it is a lot safer. His conclusion was that Terrace Street is a low volume and low speed street and there is a convergence of the streets. Because of the topography and gravity it actually slows cars from coming and going in a manner that is unsafe. He also said it is actually illegal to back out into traffic. It happens because some of the neighborhoods were designed prior to zoning and prior to certain kinds of planning, but it does happen where people actually do back into streets. You actually are supposed to back out and drive out so the driver's eyes are actually able to see. One of the dangers Mr. McArdle contemplated was if there was a large van parked all the way in that it could block peoples' view. It is not an ideal design according to the standards, but it is a design that works based on the topography and the gravity slows the traffic. The hill peaks in the middle where the parking is.

An audience member said if it is not truly conforming to be backing out into the street then the DRB could deny this based on the fact that there are probably other options for parking that are conforming on the property.

Mr. Gilbertson said from a practical matter he wants to emphasize that anybody who is using that lot is going to back out onto the street. If you have 8 feet between the edge of the pavement, and every inch of pavement is used on that street, there are probably very few cars that can come out of a parking place and back into 8 feet without getting into the street. Most people are simply going to back into the street.

Chris Rohan, a resident at 1 Chapman Road, said just in terms of vehicular access he talked with the Fire Department and they only way they can get to his house is with the small fire truck which has to be the tanker because there is no hydrant near him. That is just another aspect of how tight this place is.

Mr. Zalinger said the next criteria deals with parking.

Mr. Richardson asked the applicant what provisions for snow storage were they making.

Mr. Randall said it would be pushed over onto the Gerlach's property onto the slope. Towards the spring of the year so they could maintain the whole depth of the parking lot it would have to be removed and taken off site.

Mr. Richardson asked how far beyond the parking spaces will they be plowing on either side.

Mr. Randall said it would probably be 2 feet.

Mr. O'Connell asked what were the number of parking spaces that are required based upon the square footage.

Mr. DeSmet said if it were 2,000 it would be 8. Mr. Randall said there is about 5,300 total with the third floor.

Mr. O'Connell asked if 5,300 square feet was being used as office space.

Mr. Randall said on the third floor is the owner's private office, which is about 800 square feet.

Mr. Zalinger asked if renovation of the garage and conversion of the garage to office space an element of the zoning permit application that was submitted. Mr. Randall replied it was.

Mr. Zalinger said the next criteria deals with loading. He would venture that it is perhaps inapplicable because there will be no deliveries and product is not moving in and out.

Regarding to landscaping and screening there is none proposed except for the two trees they will add. Mr. Randall said they would be maintaining the large trees that exist on the property. Landscaping will be cleaned up a little bit. Some of the stuff in the parking spaces is essentially scrub growth. For the neighbors who have taken walks through there may have noticed that the lower area behind the building has been brought back into the condition it once had and has potential for garden space. The previous owners tended to let stuff grow. It has been cleaned up, grass has grown back there and flowers have started to come in.

An audience member said the trees there now really acts as a buffer zone and it screens the neighborhood down to Baldwin Street.

Another audience member said the trees creates some character for their neighborhood.

Carolyn Desch, a resident at 2 Mather Terrace, said she couldn't help but wonder whether the buffer goes back to the Master Plan.

Mr. Salinger said the character of the area affected is certainly a valid consideration if they were conducting conditional use review of the application. This is site plan review.

Mr. DeSmet said conditional use would apply if the office was not specifically permitted in the civic district. It is probably conditional in high density residential or other areas, but in a civic district it is a permissible use. Each district has a contemplated number of permitted uses. They are permitted as a matter of right. Other uses are conditional. In other words, a conditional permit can be granted to allow that use to be initiated in some districts only after the DRB hears the conditional use criteria, applies them, and either approves or disapproves them. Office use of this property is a permitted use in the district in which the Baldwin Street property is located, and all of the Baldwin Street property is located in that district. All of the applicant's property on Baldwin Street, that lot, is entirely within the civic district, and office use is a permitted use in that district.

Mr. Richardson said there is a table of uses in the zoning regulations for each district and some uses that are permitted in one zoning district are either not allowed or conditional where the DRB considers the nature of the

neighborhood. He said he had a question for the applicant on the landscaping. Just to clarify the earlier testimony and looking at the map submitted there is a tree line drawn in that seems to extend down the side of the property and around like a horseshoe. The area closest to the structure on the other of the structure is the grass they are rehabilitating and the flower garden.

Mr. Randall said the horseshoe shaped area is a sloped terrace restored garden area. The two legs of the horseshoe coming down the hill are a mix of substantial scrub growth that has been cleaned up some similar to the middle part right down the hill from the proposed parking.

Mr. Richardson said there are actually a substantial amount of tree area they are intending to preserve. Mr. Randall replied yes.

Mr. Richardson asked if there was any plan to cultivate the trees to provide a buffer.

Mr. Randall said they have made attempts to selectively clean and thin to improve the character and quality of what is remaining there because it went a number of years without any attention. That is part of the shaping of the back yard, and it is a natural landscaping.

An audience member asked about the comparison of the elevation at which trees will be removed versus the elevation at which they will be removed.

Mr. Randall replied that the parking area is almost a flat area coming off Terrace Street. As you come out to the edges of that area and it starts to drop off, the scrub growth in the area where the parking spaces need to be will be removed. The screening there is higher up. The screening provided by the stuff as you go down the hill will remain, and that will maintain a fair amount of screening because a lot of times it is up past the trunk and getting into the leaf area. There is one large tree right in the middle that is well situated that is not going to be disturbed and it will have a very large canopy for a number of years to come.

An audience member asked if they would need to put fill in there.

Mr. Randall replied there will be some. On the site of parking #1 and #2, that area has a lot of dead trees on the surface. A lot of people have dumped stuff there and there is a lot of dead growth that needs to be cleaned out so they can slope it to be presentable. In that case there will be some smaller trees that will need to be taken out.

Mr. Zalinger said moving on to outdoor lighting. Is there any lighting proposed for the project?

Mr. Randall said not unless some is required.

Mr. Zalinger said the next criteria relates to signs.

Mr. Randall said they have addressed with the small 6 x 12 parking signs. There will be seven signs.

Mr. Zalinger said the next criteria relates to performance standards. Generally, the performance standards have to do with emitting noise, odor, dust, smoke, noxious gases or light which creates an undue glare that would impair the vision of a driver of any motor vehicle, interfere with quiet enjoyment property by the owner or that is otherwise offensive to or inconsistent with the character of the area affected. The last performance standard is the prohibition against the use which shall cause a fire, explosion or safety hazard or create electrical interference.

An audience member said the DRB would be authorizing a parking lot that will more or less require the law to be broken at least seven times a day, 35 times a week, 1,800 times a year by a car backing out onto Terrace Street. While Tom McArdle could find the generosity to let that pass, it also seems like ample ground to deny the project on the performance standards.

Mr. Hoff said they could also remedy that by requiring people to back in.

Mr. DeSmet said it is already required.

Mr. Randall said he went over this with kids in driver's education at one point. Anybody who backs out of their own driveway is violating that law.

Mr. DeSmet said that was what he said earlier.

Mr. Randall said that is happening up and down every street in town all of the time.

Ms. Skoglund said she would suggest that a driveway is different than a parking lot.

Mr. Gilbertson said they are creating a condition and all of the driveways in their neighborhood are all pre-existing conditions. But creating a condition where people are very likely to be backing out onto the street is a problem.

An audience member said the period of time they are most concerned about is essentially from January 1 to May 20<sup>th</sup> when the Legislature is around, because at any other time there is more than adequate parking all around the State Complex. He wonders if there are not other solutions that would not require placing a 7 parking space lot in a residential neighborhood. Those of us who work in the State Complex have to put up with during that same period of time, which is to park down by the Department of Employment and Training and take the shuttle in. We have a citywide Master Plan that is supposed to include parking lots and all sorts of other things, and he doesn't recall seeing these 7 spaces anywhere on the Master Plan when he reviewed it. He wonders where this whole idea comes from that a single property can create this aesthetic issue in a residential area.

Mr. Hoff said with all due respect can we stick to the criteria and the zoning ordinance. We are so far afield with this line of conversation.

Mr. Zalinger said after the 79<sup>th</sup> reference to it being illegal he doesn't think it is illegal per se to back out of a driveway. It is noncompliant to bring a design or plan in for a zoning permit that requires and depends upon backing out. It's different than saying it is illegal. None of us are going to be ticketed on a day to day basis for backing out of any parking lot or any driveway. It's not a breach of the ordinance. It's not the appropriate standard for projects that are brought in for zoning approval.

A member from the audience said he thinks the larger issue is there are kids on the street who when people are backing out of their spots are not going to see the kids.

Mr. Gilbertson said they would probably get a ticket if they caused an accident by backing out of a parking space.

Mr. Zalinger said the Design Review Committee didn't bring that up, either.

Mr. Gilbertson said it wasn't one of their criteria. Safety is one of the DRB's criteria.

Mr. Zalinger said the next criteria is site protection and design. The development plan shall make appropriate provision for protection of the following items: streams and stream banks, steep slopes, wetlands, soils unsuitable for development, agricultural lands and primary agricultural soils, unique natural and manmade features, significant, historic and archeological sites, wildlife habitat and sensitive environmental features as identified in the Montpelier Municipal Plan, aquifer recharge areas and well heads, and scenic features including roads and major ridgelines as delineated in the Montpelier Municipal Plan. Efforts shall be made to protect and preserve such areas and to provide simple buffers while allowing reasonable development of the applicant's property.

Mr. Zalinger said he is not sure the area in question rises to the level of any of identified attributes included there.

An audience member said it may not look like much but it is the neighborhood green space, and as someone who has raised their kids in the neighborhood it is a place where they would go and look at the wildlife. There is a pileated woodpecker that rests there sometimes.

Mr. Richardson said the only concern he would have about erosion goes to pushing snow down the bank and it would run off into Baldwin Street potentially.

Mr. Zalinger said criteria 11 speaks to excavation and filling. In its entirety this section deals with the use of land for excavation and removal of fill of any kind of earth material. It is simply not applicable.

The next criteria is public sites and open spaces. The DRB shall encourage lot layout and clustering that will preserve open space areas and significant natural resources, including those identified in the Montpelier Municipal Plan. An argument could be made that the open space addressed here is the view the neighbors have.

Mr. Zalinger said the next criteria is water supply, sewer disposal, storm drainage.

Mr. Lindley asked the applicant relative to the collection of water in the parking lot if he was anticipating it was just going to run over the side and down the hill, or is there a collection on Terrace Street. Is there a storm drain on Terrace Street where there is more water coming to it?

Mr. Randall replied it wouldn't be going to a storm drain. There is no pavement proposed here. It will be just a gravel base so water will seep naturally down through the gravel base.

Mr. Lindley asked if the water was going to come off of Terrace Street and wash out the parking lot.

Mr. Randall replied not likely because it is the high point of Terrace Street and it is not in a direct line from the street coming down the hill. The water comes down the hill off to the east and then down. He doesn't think the driveway across the street hits the parking area, either. The water drains a little further off and goes down the hill.

Mr. Zalinger said the next criteria is utilities, and the last is provisions to protect the utilization of renewable energy resources. He asked if there were further comments or questions for the applicant.

Mr. Blakeman asked how many cars for business purposes are there on a normal business day.

Mr. Randall replied that at the moment they are talking 4 or 5 cars.

Mr. Blakeman asked if they had to have as many people working.

Mr. Randall said the clientele they have at the moment is a little understaffed for the amount of space they are using. They have a lot of space but not many people. A more normal office would probably have a couple more people. The present staff don't have a lot of clients in and out a lot of time. They expect that to continue to be the case. They have eight parking spaces accessible off of Baldwin Street right by the front door, so they are looking for 15 additional employees.

Mr. Cranse said he would note that this site plan review requires that existing features be shown and they aren't all on the application. The parking lot is not on the application nor is the location and dimension of the structures, at least the dimensions.

Mr. Zalinger said it would be beneficial if the site plan is going to be amended to include on the Terrace Street locations the property lines and names of the adjoining property owners. The zoning ordinance does contemplate that. The driveways on Terrace Street should be depicted on the site plan.

Mr. Zalinger asked Clancy if there was another site plan that is more comprehensive than what was submitted with the zoning application.

Mr. DeSmet said there may be a larger version.

Mr. Randall said there is one that initially showed the parking in front of the garage.

Mr. Zalinger asked what was the pleasure of the Board.

Mr. Lindley said he would like to give the applicant an opportunity to send in a revised plan in the areas we have shown concern, which includes showing the existing parking. Given what is in front of them tonight he isn't prepared to have a decision rendered until the Board receives something more accurate.

Mr. Zalinger said he would like to delegate to the zoning administrator the authority to direct the applicant to submit a site plan that complies with the ordinance rather than have the applicant rely upon us finding what is not included. The Board needs a site plan that conforms to the standards in the ordinance.

Mr. Lindley said once they have that testimony before them he is prepared to suggest the Board have a deliberative session after they receive the appropriate documents.

Mr. Zalinger said they would close the record tonight with the exception of what the applicant needs to produce for us. Mr. Lindley said yes unless there is more testimony to be heard.

Mr. O'Connell said the question is with the plan that meets the zoning ordinance it may force new testimony based upon what is in the plan.

Mr. Zalinger said it is really hard to conduct site plan review and complete the record before an adequate site plan is submitted.

Mr. Lindley said they could lay the application on the table until their next meeting.

Mr. Hoff said he is perfectly comfortable voting on the application. He doesn't think any of the deficiencies in the application will change his opinion on the application as it is before us. He is inclined to vote against it based on the first three site plan criteria. He doesn't think any of the deficiencies in the application are going to change that so he doesn't see the point in sending the applicant out to gather more information.

Mr. Blakeman said they did not receive the square footage written. He would like to receive that.

Mr. O'Connell said he would take the approach he would like to see the completed site plan and then opt for the deliberative session.

Mr. Cranse said he agrees that the zoning administrator should delegate a new responsibility to make sure the application meets the requirements is presented to the DRB. Based on the testimony from the public tonight there are two criteria that basically deal with two standards – congestion and access points. On site circulation shall be planned to avoid congestion and access points on to public streets and separation of movements on site circulation shall be planned to minimize conflicts between trucks, automobiles and pedestrians. He has been convinced by the testimony that this plan does present us with congestion and safety issues that the zoning rules say should be avoided.

Mr. Richardson said he is ready to close the record. He agrees with Jeremy to the extent that the amended application is necessarily going to alter the facts before the Board, but he would prefer to move into a deliberative session.

Mr. Zalinger said procedurally they have to either continue the application until a date certain and pending further directives from the Board. If we are going to continue it, it needs to be continued to a specific date rather than an uncertain date in the future. The Board meets on the 1<sup>st</sup> and 15<sup>th</sup> of December. If an element of continuing the

matter until the established date involves the work necessary to make a more complete site plan; it is probably not fair to project it out to December 1<sup>st</sup>, which only leaves 14 days for the applicant.

Mr. Randall said he would like to continue until December 15<sup>th</sup>.

Mr. Richardson moved that the DRB continue the site plan review and design review for 7 Baldwin Street until December 15<sup>th</sup>. Mr. Lindley seconded the motion.

Mr. Zalinger said the motion is to continue consideration of both design review and site plan review of 7 Baldwin Street until December 15<sup>th</sup>. The motion carried on a vote of 4 to 3. The application is continued until December 15, 2008.

**Adjournment:**

Upon motion by Mr. Blakeman, seconded by r. O'Connor, the Development Review Board adjourned.

Respectfully submitted,

Clancy DeSmet  
Planning & Zoning Administrator

Transcribed by: Joan Clack