

**Montpelier Development Review Board**  
**June 1, 2009**  
**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, Roger Cranse, and Kenneth Matzner.  
Staff: Clancy DeSmet, Planning and Zoning Administrator.

**Call to Order:**

Philip Zalinger, Chair, called the June 1, 2009 meeting of the Montpelier Development Review Board to order at 7:00 P.M.

**Review of May 18, 2009 Minutes:**

Upon motion by Mr. Blakeman and Mr. O'Connell the minutes of the May 18, 2009 Development Review Board were adopted on a vote of 6 to 0.

**I. 2 Mather Terrace – MDR/DCD**

Applicant: Carolyn & Daniel Desch  
Owner: Carolyn & Daniel Desch  
Design Review for replacement of porch ceiling.

Mr. Zalinger said the Design Review Committee reviewed the proposal at its May 26<sup>th</sup> meeting and recommended approval with an optional change for the applicant to pursue at its discretion, which is to employ natural color fir or commonly used blue for the porch ceiling. The applicant said she was in agreement with that.

Mr. Hoff moved approval of design review at 2 Mather Terrace, including the optional change imposed by the Design Review Committee, with Mr. Richardson seconding the motion. The motion passed on a vote of 7 to 0.

**II. 47 Barre Street – CB-II/DCD**

**87 Elm Street – CB-II/DCD**  
**89 Elm Street – CB-II/DCD**  
Applicant: Central Vermont Community Land Trust  
Owner: Central Vermont Community Land Trust  
Design review for multiple exterior renovations including color, roofs, windows, doors, porches, etc.

Mr. Zalinger recused himself from participating in the applications because he is an adjoining property owner, although it is on the other side of the river. He will facilitate the discussion and hearing without participating.

Eileen Peltier, Executive Director of the Central Vermont Community Land Trust, appeared as the applicant.

Mr. DeSmet said the first application is 47 Barre Street. The request is for extensive renovations, including windows, doors, colors and solar panels. The Design Review Committee reviewed all of these proposed changes and recommended approval as proposed. The extensive details of the renovations are on the 4<sup>th</sup> page in which lists the exterior renovations.

Mr. Zalinger said he can participate in the application for 47 Barre Street. He said the Design Review Committee recommended approval with an optional change that the applicant could relocate electrical meters to the side of the building should they desire. Ms. Peltier said she was in agreement with the recommendation.

Mr. O'Connell asked if this was a new acquisition by the Land Trust.

Ms. Peltier replied no.

Mr. O'Connell said they are now undergoing the extensive renovations for the first time. It looks like it is in need of some significant renovations.

Mr. Richardson moved approval of 47 Barre Street design review with the optional change for the electrical meters as suggested by the DRC. Mr. Lindley seconded the motion. The motion was approved on a vote of 7 to 0 and design review for 47 Barre Street was granted.

The next request is at 87 Elm Street, and he will not participate in 87 or 89 Elm Street. The Design Review Committee recommended approval precisely as proposed.

Mr. O'Connell asked what the original renovation was done, 15 years or more.

Ms. Peltier replied almost 17 years ago.

Mr. O'Connell asked if the renovations were being done because the windows are worn out, etc.

Ms. Peltier said the scope of the project entails some life safety upgrades with sprinkler systems, etc. It also entails mostly a very significant energy efficiency upgrade.

Mr. Richardson asked what they are changing to the building.

Mr. Scangas from Arnold & Scangas Architects said they are replacing windows. They are doing selective siding and clapboard replacement. They are replacing exterior doors. They are replacing the roof. They are doing some work to the rear porches and moving the stairs so the units will only be able to access them vertically, and they are doing some landscaping on the side as well. They are also adding solar hot water to the project.

Mr. Richardson said it is really the solar panels and the stairs they are looking at what they are repairing and changing.

Mr. Scangas said they are also changing colors.

Mr. O'Connell said when they indicate on the stairs, they serve currently as a fire exit as well.

Mr. Scangas replied that was correct.

Mr. O'Connell asked if the change would affect that.

Mr. Scangas said it would affect it because they are now currently sprinkling the building so it reduces the level of using the rear porches as a fire escape. They do not want to use them and the City of Montpelier Fire Department doesn't want to use the rear porches as places for people to go in emergencies. They are sprinkling the building to be able to remove the stairs.

Mr. O'Connell said if they sprinkle the building they only need to have one exit.

Mr. Scangas replied yes. They have exits but they are now exits to the front. They don't have to go to the back, up a set of stairs and out the back of the building. They are removing that hazard.

Ms. Peltier said it was also a request from several of the tenants in the building to not have that ability.

Mr. O'Connell said from a security standpoint that could be a real issue.

Mr. Richardson moved approval for design review at 87 Elm Street, with Mr. O'Connell seconding the motion. The motion was passed on a vote of 6 to 0. The Chair did not participate in the vote.

Mr. Zalinger said the next agenda item is design review at 89 Elm Street, which is a companion building to 87 Elm Street. at 89 Elm Street the Design Review Committee recommended approval as proposed.

Mr. Richardson asked if they were talking about the same type of improvements.

Mr. Scangas replied yes. If you look at the building you will notice there is a side entry to an office on the first floor from the little courtyard between 89 and 87 Elm Street. That will be removed. Clapboards will go back.

Mr. O'Connell asked if this fell into the same kind of situation as the renovated structures but it is now 17 years old and needs to be upgraded for energy.

Mr. Scangas replied yes.

Mr. O'Connell moved approval of the design review for 89 Elm Street as proposed, with Mr. Blakeman seconding the motion. The motion was approved on a vote of 6 to 0. The Chair did not participate in the vote.

### **III. Continuation of Site Plan Review – HDR**

7 Liberty Street

Applicant: Lynda Benoit

Owner: Lynda Benoit

Building demolition, reconstruction and the addition of one unit.

Mr. Zalinger reminded Lynda Benoit that she remains under oath from the previous meeting.

Mr. Lindley said he wasn't here to participate in the first hearing. He has read the minutes, visited the site and feels fully prepared to participate in the deliberations here.

Mr. Zalinger pointed out there was a revised site plan so any elements in the prior site plan that are continued can be reviewed again at this point, and those that are changed are new and different for all of us.

Mr. DeSmet said one of the outstanding features of the previous site plan was the siting and location of the parking and loading spaces as well as the landscaping and snow storage. Ms. Benoit worked with him and Tom McArdle of Public Works to redesign the parking area in conformity with the ordinance. Now you see the parking with dimensions and it is angular parking with a 12 foot travel width and a 16 foot width on the Liberty Street side. The dumpster has been removed.

Mr. Zalinger asked if there were questions from the Board.

Mr. Richardson said the rear of the building still identifies the best spaces under existing parking. He remembers from the last time that the Public Works Department had said they wouldn't let them count parking spaces back there. What are they planning on doing with the space in the back?

Ms. Benoit said nothing, just leaving it as is.

Mr. Zalinger asked if there would be parking there.

Ms. Benoit said she didn't plan on using it for primary parking, but if there is a visitor they may possibly use it as parking.

Mr. Zalinger said that would have to be with her approval. If she didn't want folks to park there she could certainly prevent them from parking there.

Mr. Hoff said he thinks the instruction from the Board the last time she was here was that the parking in the rear of the building couldn't count as one or more of the required spaces.

Ms. Benoit said it is not being counted.

Ms. Hoff said now the plan shows four parking spaces in the front of the building on the St. Paul Street side. To some extent the concern over where the required parking spots are has been dealt with. Whether or not there is another whole issue of unauthorized parking on the Brown Street side we might get to before we are done.

Ms. Benoit said Don Page from next door is parking on her land. He did an unauthorized parking to the best of her knowledge. He put it a parking space and it overlaps on her land.

Mr. Zalinger said they covered some of this ground literally and figuratively the last time and he suggested that if somebody was parking in his driveway at home he might take that personally. The Board has site plan jurisdiction over the entire site. The Brown Street frontage is west of the Pecos. There is no law over there. Anybody can park there if they want to, can come and go. The Board just isn't accustomed to those kinds of loose ends in a site plan.

Ms. Benoit said she isn't going to plow back there. She will keep the Liberty Street and St. Paul Street open and plow that for the tenants. There should be sufficient parking on that end. She doesn't plan to stand guard 24/7 back there.

Mr. Richardson said as far as the snow removal on Liberty and St. Paul Streets, where is the snow going to be removed to?

Ms. Benoit said there is plenty of room. They have always had plenty of room to put snow between the parking area and the sidewalk.

Mr. Richardson said for the record she is pointing at the strip of the grass.

Ms. Benoit said correct, and if there is substantial snow they can always put it on to the front, too. There is quite a fair amount of space on that side. The trees are no longer there. The pine trees were half dead.

Mr. Richardson said in addition to the St. Paul Street grassy area where they are planning on storing snow they are also proposing that if the snow exceeded that capacity they would put it on the front yard on Liberty Street.

Ms. Benoit said she has 10 acres on North Street. She could get a bucket loader and have it brought up. There has never been a problem. There has always been sufficient space to store the snow. There have always been 4 to 5 cars parked in that area and they have always been able to maintain sufficient parking area in the past.

Mr. Richardson said she is expanding into the grassy yard area, but she has never plowed snow onto the front yard of Liberty Street before.

Ms. Benoit said they have never had to. There is plenty of space there.

Mr. Hoff said he had a question about the three diagonal parking spaces and the area between those spaces and St. Paul Street. It is his understanding that area is grass now. At least the parking spaces will become gravel. Will that whole area become gravel?

Ms. Benoit replied where the parking area is located will be gravel.

Mr. Hoff asked if the cars that were parked there be able to drive forward out of their parking spaces or will they need to back out.

Ms. Benoit replied the way it was designed when she worked with Tom McArdle was they made sure they could back out. That is why they put the parking at an angle. They made sure there would be sufficient space for them to back out and then proceed out on to St. Paul Street.

Mr. Hoff asked if there would be anything preventing them from driving forward out of their spots.

Ms. Benoit said they could drive over the lawn if they had to. She would prefer they didn't drive over the lawn. She would like a finished appearance and manicured lawn.

Mr. Zalinger said technically that would involve them driving over the curb which they like to discourage. Mr. Zalinger asked if the neighbors would like to be heard.

Charles Gordon, a resident of Brown Street adjacent to the property, stated they are happy to see the work starting and understand that financial difficulties have risen in developing that lot. They don't want Brown Street to be the Wild West but want to restrict the parking back there. They would like to see the lawn mowed and some landscaping done so over the course of the construction it looks a little better from their house.

Stephanie Pinard, a resident next to Charlie and Katherine on the Brown Street, said her driveway faces Ms. Benoit's property. Her concerns are the unidentified spaces where there has been one couple who use that as their primary parking space last year. The couple who lived in the carriage house used that space as their entrance. She heard they wanted to put seven parking spaces in, and then she heard four. Their neighbor John was worried that it was going to push all of the snow next to his side of the building. Her other concern is they will be backing out on to Katherine and Charlie's front yard when there are four spaces and all there is present is a road. There is no sidewalk or entry way for cars to get around. Brown Street is a blind spot. Ms. Benoit wants to put four apartments in and most people are going to have two cars for each apartment, which they are looking at a minimum of eight spaces, and even if they only have one car per apartment they are looking at seven spaces and the front of the building can't hold seven spaces. She is worried it is going to congest Brown Street. It is going to drive into her driveway and Katherine and Charlie's backyard, and there is going to be too much traffic on Brown Street. People will park there because they have historically in the past, and will conceivably in the future unless it is marked off as a "no parking" zone. There aren't enough parking spaces in the front.

A neighbor said the whole area is undefined existing parking, which is not. What she asked for at the last meeting, and is still asking for, and it sounds like Ms. Benoit realizes the status quo. The status quo would be no more than two cars. She thinks that is a reasonable request given the circumstances. One of their tenants owns their own lawn care business and things still aren't mowed. Mr. Benoit made some comments about mowing lawns to her. She is concerned because it is getting very weedy and grown up and doesn't help the neighborhood at all.

Mr. Zalinger said there seems to be a recurring theme, which is the Brown Street frontage. He is troubled as one member of the DRB with having an undefined area in the site plan that parking is neither prohibited nor permitted. There is no practical impediment to folks just driving up and parking. Frankly, it seems as the applicant she is availing herself of this "nether land" of neither being permitted nor prohibited to expand their available parking for her tenants and to avoid responsibility for anything associated with it. He isn't comfortable having a site plan with a hole in it like this. Usually when the Board approves a site plan they know what is going to happen everywhere on the site. They deal with all kinds of things from buildings at Vermont College to state buildings to convenience stores on River Street. He is disturbed by this. The only way he can have disturbance quieted is for the applicant to take a position about what is going to happen there. He doesn't think the status quo of "nether land" is adequate.

Ms. Benoit said the status quo has always been traditionally a couple of parking spaces. That is all there is there. The rest is all lawn. Everybody is complaining about the lawn.

Mr. Zalinger said what transpired before was before; this is after. Once they get before the DRB the DRB has jurisdiction and the pre-existing nonconforming uses don't continue in the realm of parking. It does with respect to structures. You can rebuild whether you are in the setback or not because it is pre-existing, but the usage and permitting of parking spaces the DRB doesn't have the authority to wink and nod and say to go ahead and let the parking continue. This could be solved if she is willing to put up a sign that says no parking and spread some topsoil and seed it and take reasonable steps to enforce that prohibition. He doesn't think people in Montpelier drive up on other's front yards to park. If she was intent upon not having others park in her side yard they

wouldn't park there. If you put some topsoil down and seeded it and spread hay mulch on it and put up stakes and a sign that said no parking. It is hard for him to imagine in a small neighborhood that people will park there. If it is her tenants that want to park there and they are trying to continue that use then she is asking the Board to approve that.

Ms. Benoit said the only issue is that other people can park on that street but she isn't allowed to use any of the parking back there.

Mr. Richardson asked if she meant on lots other than hers.

Ms. Benoit replied yes, exactly. Next door they are already infringing upon her property for their parking, and she is being told she can't use her property for parking but your neighbor next door can.

Mr. Zalinger said the Board can't adjudicate those rights between her and her adjoining property owners. Parking on Brown Street is not part of her project plan.

Ms. Benoit said it is undefined parking.

Mr. Zalinger said if it is undefined parking it is defined as parking, and if it is defined as parking then the Board can't approve it because the Department of Public Works has a regulation that prohibits permitted parking spaces involving backing out into the traveled way in order to use the parking space.

Ms. Benoit said he is telling her they will approve it if she doesn't use it as parking.

Mr. Zalinger said he can't vote to approve this unless she prohibits parking on Brown Street, and he is only speaking for himself.

Mr. O'Connell said he didn't think any project before the Board that had a section of the subject property that was undefined and undefined in an area where there is significant activity that is going to occur, that the Board would be able to view it as a complete application. That would be true for any application.

Mr. Richardson said he had a question for Clancy. In the Technical Review Committee meeting what was Tom McArdle's specific concern about this area?

Mr. DeSmet said it was minimizing conflict points between oncoming traffic and cars passing out. If you have two cars next to each other and one is a 40 foot van when the person next to them backs out they are going to be all the way out in the street before they can even see, so if somebody comes around St. Paul Street they won't be able to stop in time. If there was a significant distance between the structure and the property line so they could build a circulating parking area, then it wouldn't be a problem because the car could see both ways when they come, but this isn't long enough to do that.

Mr. Richardson said the problem is where it is specifically located in a bend in the road on either side. Further up Brown Street closer to Main Street, where it is straighter, it might be a different situation.

Mr. DeSmet said there is a lot of parking in the city that doesn't conform to AOT standards, but the city can't permit parking that has a clear conflict like this so Tom said you can't propose parking in this area. Everyone here said they do, and they do. Other than Ms. Benoit taking steps to stop it...

Mr. Richardson said what Tom's concern is that for the DRB to have review over this he is saying this is a significantly dangerous area because regardless of speed it is just a visually blocked exiting point, and it is in conflict. It is significant enough to cause him to raise that concern from his perspective as the Department of Public Works. This is somewhat situational to the fact that this area is located in a blind spot. He doesn't think he can approve this proposal with that parking space allowed because it is sort of sneaking in through the status quo, and while it may have existed before unfortunately once it comes under the DRB's jurisdiction they have to take a look at the whole site plan. This seems like a fairly easily remedied situation with a no parking sign and

some grass seed and no one worries about it. It won't necessarily cost them that much more and solves this problem and gets them past the permitting phase. This seems like a very small part of a very large project. She already has her minimum spaces and is satisfying the concerns of the city and the zoning ordinance. She would have his vote if this was simply done with it like the grass seed and no parking sign.

Mr. Hoff said he agrees with Phil and Dan.

Mr. Blakeman said if Ms. Benoit was to have the property as lawn up to the Gomez house and later she and Mr. Benoit find that they really need to put a fence or something to keep people from parking there, would it mean a separate application for them?

Mr. DeSmet said he could administratively approve a fence if it isn't design review. It could be in the setback and has to be on their property. If it is over 6 feet it would need a building permit.

Mr. Zalinger said it isn't a structure.

Ms. Benoit said she would just put it into grass then with a no parking sign and get on with their project.

Mr. Zalinger asked if Ms. Benoit wished to have them amend the site plan to show the area that is now marked undefined existing parking as lawn and grass. The Board understands that an applicant who is unhappy with an outcome doesn't always necessarily intend to follow through or will follow through in a half-hearted fashion. Certainly, the Board isn't the zoning police. All the DRB does is permit and don't have anything to do with enforcement. He wants to caution her that they aren't accustomed to bullying people, and none of the members feel like they are bullying her in this instance but feel they are doing the right thing. With this amended site plan the Board hopes she has every intention of following through it because they think it would certainly enhance the neighborhood, and in the long run will enhance her property. The Board will note that she has amended the site plan and hope she is encouraged by the process and will follow through with her plans.

Mr. Richardson said apart from this issue he really appreciates the efforts she is taking to rehabilitate this building. It is an asset to the neighborhood. He has seen some of the work that she has done so far, and keeping in character with the nature of the building this is an admirable thing she is doing. He would echo the Chair's words but focus on the larger part of this proposal which by and large didn't have any issues with the DRB. As both a member of the DRB and as a private citizen he applauds her efforts.

Mr. Richardson moved approval of 7 Liberty Street with the modified site plan including the condition that the Brown Street frontage be turned to lawn and grass and that there be no parking in that area. Mr. O'Connell seconded the motion.

Mr. Zalinger said at the last meeting the DRB dealt with the demolition and reconstruction issues, including the demolition of the access connector. The Board didn't vote on that, did they?

Mr. DeSmet replied no. They should make findings that the demolition is part of the site development plan and design plan that would provide a clear and substantial benefit to the community.

Mr. Zalinger said he read the criteria into the record last time. They took evidence on those and then moved to the site plan. They can close the evidence on the demolition piece of the project. He asked if Dan would accept a friendly amendment to include not only site plan approval with the modification to the site plan made tonight but also to the demolition, reconstruction and addition of one unit at the site.

Mr. Richardson accepted the amendment. Mr. O'Connell said he would as well.

The motion was passed in favor on a vote of 7 to 0.

**IV. Sketch Plan Review for a Two-Lot Subdivision – LDR**

49 Haggett Road

Applicant: Chris and Melissa Pierce

Owner: David and Judy Murphy

Mr. Zalinger said a sketch plan is very informal. The Board doesn't take evidence but just take questions and give a preliminary view of how the Board feels about it.

Mr. DeSmet said there is a two-lot subdivision proposed in LDR at 49 Haggett Road. Lot #1 is actually the proposed subdivision or new parcel. There are not municipal services out on Elm Street. There is a 50 foot right-of-way that accesses from Elm Street. They don't have the necessary traditional frontage, but they do have a proposed 35 foot wide right-of-way. The applicant would like to combine preliminary and final approval if the Board sees fit.

Bill McQuiggan said he owns the land north of David Murphy. He just wants to make sure this is a proposal for just one more home to be built. Is that correct?

Mr. Pierce replied yes.

Mr. McQuiggan said the other concern he has is with the height of the home. He thinks it is going to be sunk down on the southern end of the lot. Also, the road that comes up comes up the driveway. It comes pretty close to his driveway. It isn't that big a deal but if they could put in some type of evergreens to break up the headlights from coming into their windows would be helpful.

Mr. Pierce said the house will definitely be on the south end of the slope. His plans are to soften the view. Also, it will be low enough that they won't even see cars going by.

Mr. Zalinger asked if they were familiar with the wastewater and water supply regulations.

Mr. Murphy said they have a septic plan already and there is a well marked on the map. They have an engineer designing the system for them.

Mr. Richardson inquired if they had already started the permitting process the wastewater system.

Mr. Murphy said he has not. He has the design ready.

Mr. Richardson said it might be important to get that in motion before the Board gets to the next phase.

Mr. Murphy said when the perk testing was done a representative from the state came out and approved the site.

Mr. Richardson said if they are professionally designed it is a fairly quick process.

Mr. Blakeman said on the map the building envelope is it fair to assume that a building has to be within that area?

Mr. Murphy said it has to meet setback requirements.

Mr. DeSmet said the proposed parcel doesn't cover the whole area. They didn't actually show their proposed building envelope yet. He is going to meet with Chris tomorrow to discuss the next application. It can meet within those limits because it meets the setbacks.

Mr. Lindley said it is always good seeing another house being built in Montpelier to help with the tax consequences. He can't believe with 2.9 acres he can't find a suitable location for that to move forward.

Mr. Zalinger said there is one matter they can take action on tonight, which is the applicant's request that conditional and final use be considered at the same time.

Mr. Lindley said he thinks of all the times if the way they are proceeding was to be put in place the Board shouldn't have any problem putting that together. Mr. Lindley said he would make a motion to allow that to occur at such time they bring it forward. Mr. Cranse seconded the motion. The vote to make conditional and final review simultaneously was voted favorably on a vote of 7 to 0.

**V. Conditional Use and Design Review – CB-II/DCD**

207 Barre Street

Applicant: Crystal Maderia

Owner: Trevor Cole

Permit # 5545

Outdoor seating and screening.

Mr. DeSmet said the applicant is requesting design review, conditional use and site plan approval for the installation of an outdoor seating area as well as the placement of two dumpsters and to screen the dumpsters. The applicant went to the Design Review Committee and the DRC recommended approval with the option of either using cedar or terracotta planters to enclose the area. The applicant is not proposing any new parking spaces. The applicant would be required to add four parking spaces based on the number of seats – 12 seats, 4 parking spaces. Previously, the applicant was granted conditional use and site plan approval for a 15 to 20 seat restaurant and they were able to satisfy the requirement by renting additional space off site, which is known as the NECI block. He has two favorable comments from the community and a suggestion from an abutting landowner's attorney who is Chris Smart. For a restaurant it is one parking space for every three seats. They are proposing 12 seats, so they need to provide either through shared used, public parking, or rental from off site to accommodate the increase.

Mr. Zalinger said because the use is seasonal the parking spaces would also be seasonal.

Mr. DeSmet said true, but he doesn't know there are provisions for that. All it says about parking is that whenever a new use is established year-round parking needs to be provided. It is conditional use because eating and drinking establishments in CB-II are conditional.

Mr. Zalinger said it is already an eating and drinking establishment.

Mr. DeSmet said that is true, but they are adding to that use

Chris Smart, a resident of Montpelier, representing the owners of the Barre Street Market. He is looking at the notice of decision on the original application. He thought it was that 20 seats were required and a minimum of 7 parking spaces. The applicant thoughtfully was able to come up with 5 off street spaces and 2 on street spaces. He is speaking because they just went through City Council with having the six 15-minute parking spaces reduced down to 2 as a compromise. There have been a number of calls made by his clients to enforce the 15-minute limit. There is a feeling upon the part of his clients that we want Kismet and Ms. Maderia to succeed but they want to be thoughtful about how they approach this. They feel like it is the restaurant patrons on the original plan are probably using those spaces. This isn't necessarily her fault at all, but they don't seem to be going to the parking spaces but parking on the street which leads to the clogging of the 15-minute spaces. He is hearing Clancy say that if they add more tables, then they are not at 20 seats any more.

Mr. DeSmet said he is only going by what they are proposing to add. He is not grabbing everything they have been approved for prior to that. He is going by the expansion of the use. It is 12 more seats so it would be 4 required spaces and they can satisfy that through shared parking, or off site parking.

Mr. Smart said he is in disagreement that there should be 4 more required spaces. If they are on the street that is going to lead to more problems in the 15-minute zone. They would suggest that the four spaces, at least three of them, come from off street through further leasing, but also for practical purposes that the permit come with a condition to put a sign up in the window telling people where they are. If you are familiar with the area down there the spaces are not right there. They are at the end of the townhouses at the next lot. People coming to the

restaurant isn't going to automatically know that is where they should go. It might just be a real thoughtful thing to say to please not park in the two 15-minute spaces that are left on the street unless you are there for takeout.

Ms. Maderia said the whole parking issue has been an issue since they began. They rent parking spaces from the Land Trust and they are happy to rent us more if we need to do that. She is hesitant to do that because it is true that the spaces they rent sit empty even though they have put up numerous signs and told people we have parking down there people choose for whatever reason not to park there. It is not her responsibility to enforce them to. When she asks people where they park they say they park on Stone Cutters Way or walk, and a lot of their customers live in the area and walk to the restaurant. It will be totally packed inside Kismet and she will go outside and there are cars parked only in front of Barre Street Market and nowhere else on Barre Street. She laughed about that because it shows how obviously confusing the signs are there about the 15-minute parking. People have thought that the 15-minute parking is either after the sign or before the sign. She has put up a sign saying not to park in front of Barre Street Market. That sign was stolen. She put up another sign and that sign was also stolen. Then, she decided to just let it go and if enough people got tickets the police could deal with it. Now with the 15-minute parking spaces being reduced to just two spaces in her mind that actually opens up four more spaces of 2-hour parking for unrestricted parking, which gives more parking for her, the hair dresser and the Barre Street Market.

Mr. Zalinger said all of this transpired before the City Council acted with regard to the new parking ordinance.

Ms. Maderia said the signs haven't been changed. The parking situation is still the same as it was a week ago.

Mr. Zalinger asked if the City Council just approved a change.

Ms. Maderia replied yes, but the signs haven't actually been changed.

Mr. Zalinger said they don't know exactly what will happen after the signs are changed. All of what transpired beforehand is really relevant for assessing what will happen in the future because when the City Council in its infinite wisdom has determined to adjust the parking on Barre Street then we have to wait and see what happens.

Ms. Maderia said she doesn't mind renting more spaces to fulfill the requirement. It feels excessive and a waste of resources because she already has four spaces that are empty.

Mr. Zalinger said he understands but the Board is bound by the ordinance.

Ms. Maderia said she is concerned about the seasonal use of her seating. If she is required to rent additional parking spaces will she be required to rent them year round?

Mr. Zalinger asked if anyone else agreed with him about conditional use.

Mr. Lindley said he doesn't need that. We only need design review. The DRB has already given the conditional use for the restaurant as an eating and drinking establishment on the site.

Mr. Richardson said that might be true if this was a significant expansion of a use, but this doesn't represent any kind of substantial addition. It is a seasonal spill out so they are just talking about the same use.

Mr. O'Connell inquired what the existing seating was.

Ms. Maderia said there are 20 seats indoors and 12 outside for a total of 32 during the summer months.

Mr. Richardson said they can get lost in the niceties of this. Under site plan they would still be looking at parking, which is the main issue. In this case they aren't really talking about the expansion of the use.

Mr. Zalinger asked if she was changing the hours of operation. It is still from 8:00 A.M. to 3:00 P.M. Wednesday through Sunday. Ms. Maderia replied that was correct.

Mr. Blakeman asked if this property was still considered downtown.

Mr. Zalinger replied yes.

Mr. DeSmet said it is only in CB-I and Riverfront. CB-II doesn't have that waiver. Barre Street is mostly HDR on one side and CB-I and CB-II and switches back and forth depending upon what side of the street you are on.

Mr. Richardson asked if the existing parking spaces in the NECI lot marked.

Ms. Maderia said no. That is a possibility that can be done. When they originally rented the spaces the Land Trust was using they said they would be willing to put in the parking signs there. Even though they told people they could park there when they put signs up people haven't chose to use them so they didn't necessarily feel they needed to go through the expense of maintaining the signs there.

Mr. Cranse said he drives by there frequently but he doesn't pay attention to how many cars are parked along that area. His hazy notion is there is usually a place you can get parking.

Ms. Maderia said she also lives on Barre Street and there is often a lot of parking. There is always parking on Barre Street, especially down at this end. When you get closer to the school it gets a little bit more congested. She never has trouble finding a parking space. The signs are confusing.

Mr. Cranse inquired where the 15-minute signs were.

Ms. Maderia said at the moment they stand in front of the apartment complex opposite Kismet and next to Kismet where the Barre Street Market is.

Mr. Zalinger inquired what the proposed months of operation for the patio were.

Ms. Maderia replied the outdoor seating would be available June through September. It would be no more than four months.

Mr. Zalinger asked what was the sense of the DRB about replacement parking in the neighborhood and requiring that on a seasonal basis.

Mr. O'Connell said he thinks that during the summer months in addition you have the advantage of having entirely clear roadway surface that is not taken up by snow banks and ice. On a practical level the parking ordinance may give us a different view of this. He can't imagine there would be an issue or problem that would require additional required parking.

Mr. Zalinger said the other off site parking that the applicant arranged for is permanent and it is an element of the existing permit. His inclination if they are going to permit a seasonal use of an expansion of three tables of four occupants each that requires four more spaces that the obligation to obtain those spaces only be during the period for which the permit is valid, which would be June, July, August and September. Seasonal replacement parking would be required, but not year round. It doesn't make sense to require an applicant for an outdoor patio to rent spaces for the other eight months of the year.

Mr. Cranse said at the same time if the leased spaces aren't being used it doesn't make total sense to him to require her to rent more that probably wouldn't be used.

Mr. Zalinger said they have an obligation to demonstrate there is parking available, and the only way to do that is to demonstrate that there is off site parking available.

Mr. O'Connell said the ordinance doesn't really allow us. It may fly in the face of common sense, but the ordinance is in place.

Mr. Cranse said the DRB may at its discretion allow the applicant to satisfy the parking requirement in one or more of the following ways: one of those ways is the use of public parking spaces in specified districts. Would that include parking on Barre Street?

Mr. DeSmet said that is one of the ways it would satisfy the parking requirements the previous time, that there were spaces on street.

Mr. Smart said the season parking is great. One thing that might want to be approached is you realize your prior decision isn't being followed – he thinks it is a great idea when she did that effort to try to get people to actually park there. Given what you have heard, that they are not being used, even on the original permit, you might want to think about some condition of it. She sounds like she is willing to do it. Barre Street Market would certainly appreciate it. They want to see her get the permit.

Mr. Hoff said under parking, section 705, it says public parking spaces in specified districts. Where does that come from?

Mr. DeSmet replied it comes from section 705(a) on page 7.

Mr. Richardson said clearly the parking spaces over at the NECI lot aren't being used so it is a definition of insanity to add multiple spaces to the NECI lot when it is just simply going to be adding to the great open space of Montpelier rather than actual parking spaces. He is inclined to have some kind of requirement that one limited space be added to the NECI lot with the other three on the public street as long as there was some requirement that there be two signs – one at the restaurant and one at the actual site. We aren't big fans of signs in Montpelier, but this strikes him as similar to a lot of other types of restaurants that have that parking that is removed. You need the signage to train your regular clientele.

Ms. Maderia said you could have tons of signs and people won't read them. They have a very good relationship with the Land Trust and when she started negotiating with the landowner about what to do with the space because it is really unattractive and something needs to happen with that space and this was a perfect thing to do, they asked about the parking. They wanted this to be a parking spot, but the Land Trust stepped in and offered their landowners additional parking for the tenants of the building very close behind the lot. They had a lot of extra spaces there and have been very generous and said Kismet's employees could park back there. Unfortunately, they don't have that same relationship with the Barre Street Market and it has been awkward between our customers and the market owners. She doesn't have any intention of getting involved in that relationship. She hopes their relationship will improve, but she doesn't know if even having off street parking is going to improve that relationship because even when her customers come in for 15 minutes to grab a coffee or grab a sandwich to go they are being yelled at by the market owners. If she has 32 seats and need 10 parking spaces for that total, or 11 spaces, there are more than 11 spaces just across the street for about one block. All of those houses have their own parking. Rarely do the people who live in the houses across the street park on the street.

Mr. Hoff said he is leaning towards not requiring them to lease more parking spots. Another factor is that this is summer time only use, and when else are you going to walk, ride your bike, or do whatever else to get there? If there ever was a time people wouldn't use a car it would be the summer, and there are a lot of spots on Barre Street. It doesn't concern him very much.

Mr. Zalinger said he has a question about the landscaping and screening. They are going to have cedar planter boxes or terracotta planters and use edible plants. If you go down through the rest of the site plan criteria, the pedestrian, vehicular access and circulation, parking and loading spaces there are no changes. Landscaping and screening, the detail here is they have built a 14 foot wall to separate the area from the other uses on the site, have some planters and tables and chairs. There is no signage or lighting.

Mr. Blakeman said during the winter time will they have storage off site.

Ms. Maderia replied yes.

Mr. Cranse said he agrees Jeremy about the parking. Mr. Cranse moved approval of the site plan and design review at 207 Barre Street with the stipulation that the additional parking required will be public spaces. Mr. O'Connell seconded the motion. The motion was approved on a vote of 7 to 0.

**Adjournment:**

Upon motion by Mr. Richardson and Mr. Blakeman, the Development Review Board adjourned.

Respectfully submitted,

Clancy DeSmet  
Planning and Zoning Administrator

Transcribed by: Joan Clack