

**Montpelier Development Review Board**  
**July 6, 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 Win Turner.  
Staff: Clancy DeSmet, Planning and Zoning Administrator.

**Call to Order:**

Phil Zalinger, Chair, called the meeting of the Montpelier Development Review Board to order at 7:00 P.M. on July 26, 2009.

**Review of June 15, 2009 Minutes:**

Mr. Richardson said he would not the minutes were incomplete because the battery on the recording machine died. They ended with Candace Moot's testimony. Upon motion by Mr. Blakeman and Mr. Richardson the minutes of the June 15, 2009 DRB meeting were approved on a vote of 5 to 0.

**I. 110 East State Street – HDR/DCD**

Applicant/Owner: Philip Dalsimer  
Design review for a rear deck.

Mr. Zalinger said the Design Review Committee recommended approval with one suggested optional change, that two wall mounted exterior lanterns be added to the rear of the building and one may be placed above the door and the other may be placed at the eastern most point of the deck. He asked if the applicant was in concurrence with the suggestions. Mr. Dalsimer replied he was.

Mr. Lindley moved approval of the design review for 110 East State Street with the Design Review Committee's suggested optional changes. Mr. O'Connell seconded the motion. The motion was approved on a vote of 7 to 0.

**II. 116 Main Street – CB-I/DCD**

Applicant: Tregea Bevan  
Owner: Raymond Alvarez  
Design review for a sign.

Mr. Zalinger said the Design Review Committee recommended approval with some adjustments. The applicant said she was in agreement with the adjustments.

Mr. Richardson said he would suggest that the adjustments not be optional and he wants to make it clear that the applicant understands that as well.

Mr. O'Connell moved approval of the application with the DRC recommendations with Mr. Cranse seconding the motion. Mr. Zalinger said it is with the understanding that they are not recommendations but adjustments to the proposal. The application was approved on a vote of 7 to 0.

**III. 11 West Street – HDR/DCD**

Applicant: Marcel Rocheleau  
Owner: RKG, LLC  
Design review for multiple exterior renovations.

The Design review Committee recommended approval with certain required changes. He asked the applicant if he was familiar with the required changes.

Mr. Rocheleau said his wife informed him of what she understood. Their intention in replacing the two main doors was for energy efficiency. He understands the DRC looked at them in terms of the historical significance of

the panel doors. Those panel doors aren't available any longer. They can replace something fairly close. On further review they think the existing doors can be handicapped accessible. They could modify the existing doors and replace the glass to make it useful. It would be more difficult for students who don't have really good control of their wheelchairs to access that, but it can be done.

Mr. Zalinger said the Board needs to know if the applicant objects to any of the adjustments that the Design Review Committee imposed.

Mr. Rocheleau said he thinks the concrete stairs they proposed are a better way to approach this than the wooden stairs which even with pressure treated lumber would decay over time. The concrete stairs are more in keeping with the historical fabric of that building. That is their real concern. Other than that they can live with the recommendations.

Mr. Lindley said he could have either wood or granite in the proposed recommendations.

Mr. Rocheleau said they are proposing a concrete manufactured slab as they did in front of the parking lot from the rear of the building to the main area, which looks very much like granite. It will last as long and isn't as expensive as the granite itself.

Mr. Richardson asked if he was saying the rear stairs have a granite type of appearance even though they are concrete.

Mr. Rocheleau said last year because the bank was eroding into the rear parking lot they put a retaining wall in made of concrete which looks like granite, and stairs to access the front of the building. The project came before the Development Review Board.

Mr. Richardson said he understands the language of the recommendation to be proposed construction of wood or granite material to match the existing steps. Are there granite steps on the building?

Mr. Rocheleau replied there are on the front of the building, yes.

Mr. Richardson said it was with the understanding that the Design Review Committee wasn't speaking of the faux granite cement. He wants it understood the granite material to be inclusive of the cement.

Mr. Rocheleau said that would be their preference. Looking at the cost of granite it is about three times the cost of faux granite.

Mr. DeSmet said the Design Review Committee was opposed to the faux granite steps on the front of the building.

Mr. Zalinger said the recommendation form suggests that the DRC concluded that concrete was not a compatible material but that wood and granite were compatible with other elements of the project.

Mr. O'Connell said he would opt to go with the DRC's recommendations. They have considered them, and usually the DRB is supportive of those. If cost is an issue they have the option to go with the wood even though it is not their preference.

Mr. Zalinger asked if he was in agreement with the proposed findings that the Design Review Committee imposed. Mr. Rocheleau agreed he was.

Mr. O'Connell moved approval of the application at 11 West Street as adjusted by the Design Review Committee, with Mr. Lindley seconding the motion. The motion passed on a vote of 7 to 0.

**IV. 22 State Street – CB-I/DCD**

Applicant/Owner: Carlo Rovetto

Design review for outdoor seating and signage.

The Design Review Committee reviewed this application and recommended approval with several adjustments. One is that the lettering over the left entrance will say “Italian Restaurant – Full Bar”, and over the right entrance it will say “Live Music and Hand Tossed Pizza.” Then, an optional change at the applicant’s discretion to have a lockable display case is painted black or bordered in black. He asked if the applicant was in agreement with the adjustments. Mr. DeSmet said it is his understanding they didn’t have a problem with what it said.

Mr. Blakeman asked if he would have an employee bring drinks out to folks. Mr. Rovetto said there would be a server that would go out and serve the tables. Mr. Blakeman asked if somebody from the business would be out there all of the time. Mr. Rovetto replied yes.

Mr. Hoff asked how come the application didn’t have a site plan.

Mr. DeSmet replied it is temporary and on city property. There are no permanent fixtures so he thought it was exempt from site plan review. In his interpretation he thought the application only needed design review. There are no permanent fixtures.

Mr. Zalinger asked if the city requires any license to use its sidewalk for this purpose.

Mr. DeSmet said he spoke to Tom McArdle about using the sidewalk and the only concern was that people with visual disabilities have the ability to feel the bottom rung of the rope of the stanchions. They will be going before City Council for an outside consumption license this week.

Mr. Hoff asked if a site plan was submitted.

Mr. DeSmet said just what was included in the packet. Mr. McArdle looked at the drawing and approved it.

Mr. Zalinger told Jeremy Hoff what they have is like a private property using the city’s property so the city has jurisdiction over the use of its own property like if they were conducting activities on the applicant’s property then it might require a site plan. That’s the only distinction.

Mr. Rovetto said they have to make sure there is 7 feet of passageway so it only put them out 30 inches on the sidewalk.

Mr. Hoff said he thinks it strange they don’t have a site plan and he doesn’t see any problem with it. He is trying to satisfy himself that the review isn’t required.

Mr. Zalinger said it had occurred to him, too, but then he thought about the coffee shop across the street with the tables.

Mr. Hoff said even the coffee place across the street the seating is underneath the porch area and it doesn’t spill out onto the street. One thing that is sort of troubling about this is that in the first criteria the evaluation is the appropriate style with other properties in the district. While we have outdoor café seating this is the first time they are talking about actually putting outdoor café seating into the public right-of-way. This goes beyond That’s Life Soup that has one outdoor table, but at least it is in the recessed area. This is the first time they are talking about expanding out into the public right-of-way, and he finds that inconsistent.

Mr. O’Connell inquired about Rhapsody. Rhapsody has outside tables and they never went through any process. They have at least two, maybe three, tables out on a regular basis during warm weather. There’s an inconsistency here on a number of different levels.

Mr. Hoff said he is just concerned they seem to have a number of these outdoor patio applications and we may be altering the nature and flow of traffic in downtown by doing this piecemeal.

Mr. O'Connell said the question even before that that would be of concern to him is if a business owner just decided to put some tables out is it legitimate? It happens now.

Mr. Zalinger said what if a business owner said he is going to put a table of books out in front of his store, which happens and it has happened for years and years.

Mr. O'Connell said he isn't too terribly concerned about the infringement of four tables. He isn't as concerned about the proposal for the tables as perhaps a little more concerned about what is really required.

Mr. Rovetto said Tom McArdle wanted him to go with the visually impaired places and what is really important for the people who can't see. They said the most important is to make sure that the stanchion, the area that is square off, is not tapered at an angle.

Mr. Zalinger told Mr. Rovetto he is hearing the Board members discuss process and not necessarily his application. It is certainly something the Board should take under advisement and perhaps if this continues the zoning ordinance should be modified to address this on a consistent basis.

Mr. O'Connell asked if the Chair would suggest that at this point they should communicate with the Planning Commission about this concern. Mr. Zalinger said they can do that through the Zoning Administrator just so it is a level playing field among all applicants and all business owners.

Mr. O'Connell said he does feel there should be a level playing field for all of the businesses so there are some guidelines. In fact, the DRB does deal with those issues such as making sure that we aren't creating an unsafe situation for the sight impaired or any other population. Mr. Hoff said that goes to his concern that we don't avoid addressing this issue. He read in Mr. McArdle's letter seeming to indicate

that the City Council has some responsibility in this, but they are looking at this as the Liquor Control Board and their powers as a Liquor Control Board. He is fearful that while this application makes sense in the way it has been proposed to the Board as a design review issue only.

Mr. Cranse said he was looking at the regulations and site plan is required for all development involving nonresidential multi-family uses as shall be reviewed. The key word is development. If you look up development in the definitions it is really broad. The division of a parcel of land into two or more parcels, construction, reconstruction, conversion, structural alteration, relocation, enlargement of any building or other structure, or any mining, evacuation or landfill, any change in use of any building or other structure of land or extension of land... He isn't sure getting the breadth of that whether the sidewalk café fits it or not.

Mr. Zalinger said Clancy concluded that because all the applicant intends to do is roll out some tables, if the weather permits, and roll them back in when the day is over it really doesn't constitute development by its temporary nature. Indeed, Tom McArdle suggests that this is more revocable license that the city authorizes rather than a permit.

Mr. DeSmet said there is also an exemption under site plan that says the application is exempt from site plan if there is no building additions, no alterations to the site, no changes to the entrance, no tractor trailers permitted, and it doesn't increase the amount of parking. It's under Section 306 (b) (4) on page 3-8. If someone was to come in with a proposal like this and there wasn't a safe amount of room between the entrance and a mailbox it wouldn't get passed.

Mr. Hoff said he thinks there is a difference between seasonal and temporary. It's a seasonal use, but he is assuming he is asking permission to do this every year.

Mr. Zalinger said the ambiguity lies in the ordinance and the ordinance just doesn't address this.

Mr. Hoff said there are a lot of people out there doing this that haven't come forward for a permit. He doesn't feel that is sufficient justification for them not to put this through site plan review because he believes the ordinance asks for it. He doesn't think it would have any problem getting through site plan. He doesn't see any problem with the design review portion of it.

Mr. Zalinger asked if he was suggesting that any application that has these components qualifies and should require site plan review.

Mr. Hoff replied yes.

Mr. Lindley said he thinks there is enough ambiguity that they should move forward with this application for approval and send their recommendations with Clancy DeSmet to the Planning Commission and to the City Council for amendment of the zoning.

Mr. Zalinger said maybe they send a message to the Zoning Administrator and other businesses tonight to discuss what requires site plan review. Maybe that would take care of it without touching the ordinance.

Mr. Lindley moved approval of design review for the 22 State Street application with the change from "Italian Restaurant" to "Italian Trottiere." Mr. Hoff seconded the motion. The motion passed on a favorable vote of 7 to 0.

**V. 5 High School Drive – GB/DCD/FP**

Site Plan and Design Review for reconstruction/relocation of tennis courts.

Applicant: Montpelier Recreation Department (Dana McCarthy)

Owner: City of Montpelier

Dana McCarthy with Friends of Central Vermont Tennis said they are a fundraising group to get this project underway. Don Marsh of Marsh Engineering was also present. Also present was Stevie Bresher the landscape architect and Arnie McMullen from the Montpelier Recreation Department. Mr. Zalinger administered the oath to the parties involved.

Mr. DeSmet said the applicants are seeking design review and site plan approval for the reconstruction and replacement of fencing and various landscaping along with other site improvements at 5 High School Drive. The courts are going to be relocated on an angle approximately 8 feet from where they are right now. No lighting is proposed and there will be vinyl coating on the fencing and a 9 foot high wind screen surrounding the perimeter.

Mr. O'Connell inquired if the lighting that is presently there would not be replaced. Ms. McCarthy said there isn't any currently working now. He asked if there were going to be the same number of courts. Ms. McCarthy replied yes.

The Development Review Board reviewed the site plan criteria and dealt with some of the design review aspects of the application as well.

Mr. Zalinger asked if there was any change in the parking configuration of the lot. Ms. McCarthy replied no.

Mr. Zalinger said their application is complete and detailed. Mr. Zalinger asked if there was going to be any signage to indicate when the operating hours are. Is the access going to be restricted to just high school students?

Ms. McCarthy said it would be open to everyone just as it is now.

Mr. Zalinger said none of the performance standards are applicable. He asked Don Marsh if he would have any problem meeting the flood plain development standards. Mr. Marsh said there is a slight change in grade but not significant.

Mr. Blakeman asked if there was any use for the electrical transformer they are leaving. Ms. McCarthy replied no.

Mr. Marsh said the electrical transformer actually belongs to the school and it is related to the lighting for the football field. It's unrelated to the tennis courts.

Mr. Blakeman asked if there was going to be any night playing.

Ms. McCarthy said they will be able to play out at Elm Street. They have lights out there and that seems to be sufficient at this time for the number of players that go out there and actually play at nighttime. The U-32 courts that are under construction right now will have lights so there will be two venues very close by where you can play tennis at nighttime. Given the fact that the sun doesn't set until after 9:00 P.M. she isn't sure that many players are playing after 9:00 anyway.

Mr. Zalinger said it appears that the Design Review Committee did make recommendations for optional changes. It says the vinyl coated fencing may be dark green or black. The proposed benches may be metal. The proposed steps or walkway may be masonry, stone or wooden. Is that consistent with the plan? Ms. McCarthy replied.

Mr. Zalinger asked if they could tell the Board something about the barrier they are going to weave through the fence for wind screen.

Ms. McCarthy said they would go up in the spring and will come down in the fall. They are a green mesh fabric. You can't really see through them. You can see objects that go through, but they just provide a barrier so the gusts of wind help with the play of the ball. They will be on two sides anyway, perhaps three sides if the court. They will be along the highway side and probably along the running track side. Normally, those are the two sides of the court where they go if they have enough to go around. The two short ends usually don't have them. They are 9 feet in height. The fencing is 10 feet. It is a green fabric and they will put it up in the spring and take it down in the fall.

Mr. Zalinger said as a wind screen one might conclude that it might suffer from use. It won't be in the same condition when they take it down as it is when it is put up. It is going to absorb the wind for 5 months. Is there a life expectancy for this?

Ms. McCarthy said it generally lasts about 5 years, maybe 7 years.

Mr. Zalinger said the site will visually suffer if they don't replace it on a timely basis.

Ms. McCarthy replied correct. If you notice the ones out at the recreation field they have sheers in them and need to be replaced. They actually inherited those from a family that donated them that were already used from Florida and they have had them over 5 years, so they have gone beyond their longevity and will probably be replaced next summer through the fundraising efforts. She doesn't think the Recreation Department has money so it will be another fundraising effort to get those replaced.

Mr. Zalinger said the courts would belong to the city. He asked her if they would object to having the Board including a condition that the wind screen be replaced when its visual life is no longer attractive. If we are going to improve this area and put up new fencing, if in 7 years the wind screen starts to tatter and looks shoddy it isn't a great vision on your way into the city.

Ms. McCarthy said one aspect of the group she is associated with is their goal is to have a long term commitment that helps the city keep these courts maintained. They won't have a ton to help out, but they will have some

resources available. That is their goal so they won't face this problem 25 or 35 years from now because that is why they got involved in the first place. The federal money that is helping to rebuild these courts this area has to stay a recreation area. They hope it will stay as tennis courts. In perpetuity is the way the grant money reads and hopefully this area will stay in good repair and as long as they are around they hope to make that effort happen.

Mr. Lindley inquired how tall the existing fence was.

Ms. McCarthy said it is 10 feet. That is what it is at the recreation field as well.

Mr. Richardson moved approval for site plan review and design review for 5 High School Drive with the optional changes recommended by the Design Review Committee and with the condition that the wind screens be kept in good maintenance. Mr. Blakeman seconded the motion. The motion was approved on a vote of 7 to 0.

**VI. One National Life Drive – OP/DCD**

Site Plan and Design Review for a 1,020 foot entry addition.

Applicant/Owner: National Life Insurance Co.

Interested Parties: Fred Barnett, Director of Facility Management at National Life

Sara Thyng, Engineering Ventures, Civil Engineer on the Project

Doug Viehmann, GVV Architects

Mr. Zalinger administered the oath to the interested parties for the application.

Sara Thyng said the project is located at the National Life building on National Life Drive. It is basically between the north wing and the south wing. It is the entrance where the security guard sits. The project basically consists of removing the sidewalk from the doorway out to the parking lot and putting in an enclosed walkway and a pavilion at the end that will be relocated some existing picnic tables and a bike storage area on either side of the building. They will be putting in some landscaping to screen the picnic area and biking to enhance the area. They will also be doing a little bit of grading out at the entrance where the sidewalk meets up with the parking area to improve some of the drainage to get things flowing.

Mr. Viehmann said this is the existing connector between the south and north buildings. The existing walk that connects the two is actually too steep to meet the ADA requirements. It's about a 1 in 18 pitch and 1 in 20 is the maximum you can have without a railing. It presents several problems. It is steep enough so they use a lot of salt in the winter trying to keep people from sliding down. It is also in the shade all winter long so it gets icy and not very inviting when you get out of your car and presented with this 150 foot walk up to the door at the end of the tunnel. They are bringing the entrance from here to here. There will be automatic doors at each end. This is to be a heated area. It is intended that it won't be heated to 70 degrees but 55 degrees in temperature. The way they are meeting the ADA issue is by putting a ramp up the middle. On either side of the ramp there will be 6 inch steps with two strides per step. Then, there is a more gradual slope to finish it off before you get to the flat spot at the top. Most people are going to go right up the middle. In terms of ADA the front door is supposed to be accessible so why make people in wheelchairs have to go the long route around.

There is also a sort of outdoor gathering area and bicycle parking there now and they are keeping. Signage will remain where it is. They are collecting the water off the roof. Some day maybe in the future it might be a green roof, but right now they are just collecting the water at three locations and that water will get piped into the existing storm sewer and reducing the runoff. They are reducing the area of paving. There is more paving now than what there will be.

The existing window framing is bronze colored aluminum. They will be putting a bronze colored glazing system in here. The existing siding panels in between the glazing are grey granite, so there will be grey granite underneath the windows. Above the windows, however, up in the soffit area they are using a granite tech system which is much lighter and easier to hang from the roof structure and will actually color match the granite. The other piers at the other entrance, which is the main front door, is a big white round column structure with a blue glass roof that is a pyramid shape. To tie these two together these are white aluminum piers in between and the pavilion roof with a skylight in the middle so there will be a lot of daylight. The whole thing is about 16 feet wide. During the day the lights probably won't have to come on because there is so much glass, but there is lighting in there at night. It steps down so it is not 25 feet tall by the time you get to the end of it.

Mr. Zalinger said it is his understanding that the Design Review Committee recommended approval with an optional change that the entry doors can be modified if required by the Building Code. If two doors are necessary, then the DRC will accept the modification.

Mr. Viehmann said what they have is a double sliding door so they both open. They also in an emergency if you touch them they would both swing open.

Mr. DeSmet said he thinks the DRC was beyond their jurisdiction. They wanted to make sure that if the Building Code required the double set of doors rather than the proposed they wanted to allow it. They were worried about the panic factor.

Mr. Viehmann said they have enough exit capacity.

Mr. Blakeman asked if this was the same location where the ATM machine is.

Mr. Viehmann said it is north of that. The ATM is the branch bank and this is the north entrance to the main building. The buildings jog in, and this is at the jog.

Mr. Blakeman inquired if this was taking any parking spaces away.

Mr. Viehmann said it doesn't change the parking at all. They are raising the curbs slightly along about 5 parking spaces in order to improve the drainage. Right now the whole parking area drains to those two catch basins right in front of the entrance and they are trying to move the water aside.

Mr. Blakeman asked if the fleet cars stay in the garage.

Mr. Viehmann replied yes.

Mr. Richardson moved approval for site plan and design review approval at One National Life Drive, and Mr. Lindley seconded the motion. The motion was approved on a vote of 7 to 0.

#### **VII. 101 Northfield Street – CB-II/DCD**

Site Plan and Design Review for demolition and extensive renovation of existing motel.

Applicant: Anil Sachdev

Owner: COPS, Inc.

Interested Party: Tom Leytham, Architect

Mr. Richardson recused himself from this application because he owns an adjoining property. Mr. Zalinger recused himself from this application because from time to time he provides legal services to COPS, Inc., the owner. Mr. Zalinger facilitated the conduct of the hearing but didn't participate in the substance of the decision.

The application is for site plan and design review at 101 Northfield Street. Mr. Zalinger administered the oath to Tom Leytham.

Mr. Leytham showed the DRB a survey plan for the property. It is 5.6 acres. The proposal is to remove the two buildings on the south end of the property, remove the parking and reseed the ground for a lawn area. Tom McArdle suggested there are some parking places down on Northfield Street and that we should remove those parking places and turn that back into grass. There are 45 parking spaces for 42 units. There is capacity for another 6 or 8 cars on the existing paved area. They are trying to make it a little easier for the dumpster so access would be easier.

The building now has an exterior corridor and the proposal is to enclose that corridor and turn it into a porch. The office that has been in the building that is being demolished will be located in the center section which is going to be rebuilt. The façade is going to be a stucco with wooden clapboard underneath the glazing. The center section



will have an awning around it. There will be lighting on the building. There is one existing yard light which will remain.

Mr. O'Connell inquired if there was going to be other lighting, just the same as the existing.

Mr. Leytham replied that was correct.

Mr. O'Connell asked if the building was being demolished behind the office building.

Mr. Leytham replied yes. It's empty right now.

Mr. O'Connell asked if that was the original motel.

Mr. Leytham said the big larger building was the original. Some of that building was burned in that back section several years ago. He took some photos in the back of the building to give an idea of the existing screening on the site. There is a very steep bank in back of the building and quite forested. They are going to get rid of the paving that is on the land now. They have done a lot of work in cleaning up the place and getting the grass straightened out.

Mr. Lindley asked if it would be their hope that once they have the pavement gone that the grass wouldn't be let grown to hay field.

Mr. Leytham said it is two acres and it should be mowed on a regular basis. There is a hedge that someone planted. The upper parking lot is where the buildings have been demolished already. Then, there is a bank and a row of maybe 6 to 8 Maple trees there now that are sizeable and healthy trees they are going to keep. The terrace will remain.

Mr. Blakeman asked what COPS stand for.

Mr. Leytham said it is a partnership of investors.

Mr. DeSmet said it is just the applicant which is a corporation.

Mr. O'Connell said he would note that the Design Review Committee has reviewed the application and are suggesting it be approved as submitted. Mr. O'Connell moved to approve the project as proposed. Mr. Lindley said there should be a condition that the two acres would be kept mowed and opened. Mr. Cranse seconded the motion. The motion passed on a vote of 5 to 0. DRB Members voting were Mr. Lindley, Mr. O'Connell, Mr. Blakeman, Mr. Cranse and Mr. Hoff voting in favor of the motion. The Chair did not participate.

#### **VIII. 49 Haggett Road – LDR**

Preliminary/Final Subdivision review for a 2-lot subdivision.

Applicant: Chris and Melissa Pierce

Owner: David and Judy Murphy

The Board conducted a sketch plan review several weeks ago. Mr. Zalinger asked Clancy DeSmet to tell the DRB what changes there may have been to the application since that time.

Mr. DeSmet said the major changes were the building envelope was delineated as well as elevations of the home and proposed screening along the drive. One of the neighbors was concerned about cars entering and exiting the property and headlights shining in. Other than that, there were no substantial changes made.

Mr. Pierce said they showed the setbacks to show the building met the setback requirements.

Mr. Zalinger asked if there was a question about the grade of the driveway for emergency vehicles.

Mr. Pierce said Glenn Moore said he didn't know what the grade could not exceed, but he assured him that it would never exceed any of the ones that are already on Elm Street. At this point he thinks it will be about 10 percent.

Mr. Blakeman asked if the septic and drinking water been laid out yet.

Mr. Pierce said yes. In his original sketch plan he had a septic plan that already has been designed. The well is northwest of the house and the septic is south.

Mr. Zalinger said the property is not going to be hooked up to municipal services so it requires a permit from the Agency of Natural Resources. It has setback requirements and also requires they identify a backup system on the parcel so it is very well licensed and permitted.

Mr. Richardson said the screening they have added on the driveway, are the three trees indicated. Mr. Pierce replied yes. Is that a screening system he worked out with a neighbor? Mr. Pierce said they did. He walked the property with him and they talked about it. Mr. Pierce said there is also about a 4 foot berm right there so the trees don't need to be very big.

Mr. Hoff moved approval combined preliminary/final subdivision of 49 Haggett Road. Mr. Blakeman seconded the motion. The vote was favorable on a vote of 7 to 0.

**IX. 399 Murray Hill Drive – LDR**

Variance request for placement of a shed in rear yard setbacks.

Applicant/Owner: Peter and Denise Ricker

Since the applicant was not present, the DRB recessed their meeting because the agenda was 35 minutes ahead of schedule. There should not be future expectations. Mr. DeSmet called the applicant to see if he was coming.

The DRB meeting came out of recess to hear the variance request for the placement of a shed from Peter Ricker. Mr. Zalinger administered the oath to the applicant.

Mr. DeSmet said Mr. Ricker would like to place a 10' x 14' storage shed within the rear yard setback at 399 Murray Hill Drive, which is located in low density. The setbacks in low density are 20', 30' and 75' respectively. The main building is approximately 75 feet from the property line. They are requesting a 50 foot variance.

Mr. Zalinger said the ordinance provides for criteria the Board has to review in order to consider a variance.

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

*a) That there are unique physical circumstances or conditions, including irregularity, narrowness, or shallowness of lot's size or shape, or exceptional topographical or other physical conditions*

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

Mr. O'Connell asked the applicant when his house was built.

Mr. Ricker replied in 1984.

Mr. O'Connell said the current zoning ordinance, or at least the LDR definition, existed then, but it is out of conformity with the existing lot.

Mr. Ricker said his house doesn't meet the side setbacks.

Mr. DeSmet said it meets the rear setbacks.

Mr. Ricker said his rear setback is about 75 feet.

Mr. Zalinger asked Mr. Ricker if there were physical circumstances that have to do with the lot which suggests why the shed needs to be placed at the location he is proposing.

Mr. Ricker said to the left of the house there is a ridge which is all ledges. It is a ledge spine that runs through there. Beside the garage and where the ledge is are the only areas he needs the setbacks. He would either have to remove the ledge or have it right beside his garage. On the back property line there is a 30 acre tract owned by Donald Pfister and the house is down by the County Road, so it is pretty much open land behind him.

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

Certainly, an outdoor storage shed is a reasonable use of a residential parcel. Because of the ledge there really is nowhere else he can place the shed.

Mr. Ricker said because of the ledge, also, his house is built on a slab so he has no storage space so he needs the shed. He has no basement.

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

Mr. Zalinger said he thinks the spine of ledges indicative of that hardship relating to the land and not circumstances

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

As Mr. Ricker indicated it won't be visible. He doesn't think a storage shed is going to be detrimental to the public welfare.

- e) *That the variance, if authorized, will represent the minimum variance that will afford relief and will represent the last deviation possible from the zoning regulation and from the Montpelier Municipal Plan.*
- f) *The variance will not result in the initiation of a nonconforming use of land.*

Mr. Zalinger said he thinks it is clear that both criteria are met.

Mr. O'Connell asked if that was the type of shed he was planning on installing.

Mr. Ricker said it is from the East Montpelier Home Center and it would match the clapboards of his house.

Mr. Blakeman inquired if he planned on having any electrical connections.

Mr. Ricker replied no.

Mr. O'Connell moved approval of the application for Peter and Denise Ricker at 399 Murray Hill Drive for a variance as submitted. Mr. Richardson seconded the motion. The motion passed on a vote of 7 to 0 and the variance was authorized.

**Adjournment:**

Upon motion by Jack Lindley and Kevin O'Connell, the Development Review Board adjourned.

Respectfully submitted,

Clancy DeSmet  
Planning and Zoning Administrator

Transcribed by: Joan Clack