

Montpelier Development Review Board
September 21, 2009
City Council Chambers, City Hall

Approved 10/05/09

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

Call to Order:
The September 21, 2009 meeting of the Montpelier Development Review Board was called to order by Kevin O’Connell, Vice Chair at 7:00 P.M.

Review of September 8, 2009 Minutes:
Upon motion by Mr. Lindley and Mr. Blakeman the minutes of the September 8, 2009 Development Review Board were adopted on a vote of 6 to 0. Mr. Zalinger, Chair, abstained from voting since he wasn’t present for the whole meeting.

- I. 14 State Street-CB-I/DCD**
Applicant: Pinky’s on State
Owner: Candace Moot
Design Review for Exterior Painting
Interested Parties: Nancy Martel and Kathryn Berry

This application is design review for exterior painting. The materials provided by staff indicate that the applicant is seeking design review approval for the change of exterior colors at 14 State Street which houses “Pinky’s on State.” The Design Review Committee reviewed this application on August 25th and recommended approval as proposed.

Mr. Blakeman moved approval of the change of exterior colors for 14 State Street which houses “Pinky’s.” Mr. O’Connell seconded the motion. The application was approved on a vote of 7 to 0.

- II. 18 State Street-CB-1/DCD**
Applicant: Capital Kitchen
Owner: Scott Fitzgerald
Design Review for a Sign.
Interested Party: Jessica Turner

The applicant seeks design review approval for the placement of a 27” x 36” (6.75 ft) projecting sign at 18 State Street. The DRC reviewed this application at the August 25th meeting and recommended approval with the following adjustment: Any holes to be drilled into the brick façade for the mounting hardware shall be made within the mortar joints, not drilled into the brick face. Mr. Zalinger asked if that was an adjustment the applicant could accommodate. Ms. Turner replied yes.

Mr. O’Connell moved approval of the application with the Design Review Committee’s recommendation, with Mr. Lindley seconding the motion. The application was approved on a vote of 7 to 0.

- III. 101 Northfield Street-CB-II/DCD**
Applicant/Owner: COPS, Inc.
Design Review for a sign.

The applicant seeks design review approval for the replacement of the facing and image of an existing ground sign at 101 Northfield Street. Mr. Zalinger said he would share the matter but recuse himself from participating.

Mr. Richardson said he would also be recusing himself because he is the owner of an abutting property. The Design Review Committee reviewed the application on August 25th and recommended approval as proposed.

Mr. Lindley moved approval for the new sign for 101 Northfield Street with Mr. Hoff seconding the motion. The motion was approved on a vote of 5 to 0. The record shows that both Mr. Zalinger and Mr. Richards recused themselves from participation and voting on the application.

IV. 185 Main Street – HDR/DCD

Applicant/Owner: James & Janet Burke
Design Review for Windows.

The application involves a minor amendment to a previously issued exterior renovation project. The substitution is to add two double awning windows to replace single awning windows, which have been previously approved. The Design Review Committee reviewed this at its September 15th meeting and recommended approval with an option to the applicant to use four equally sized awning windows instead of the two double. It is at the applicant's discretion as to what he wants to do. Either alternative is acceptable to the Design Review Committee.

Mr. Lindley asked if the application was before the DRB because it is in the Design Review District. Where does that district end?

Mr. DeSmet replied this is the last house in the district.

Mr. O'Connell moved the Board accept the application as proposed with the options recommended by the DRC to be acted upon at the discretion of the applicant. Mr. Lindley seconded the motion. The motion was approved on a vote of 7 to 0.

V. Design and Conditional Use Review – MDR/DCD 17 Baldwin Street

Applicant/Owner: Steve and Bonnie Everett
Change of Use and Multiple Exterior Renovations

Mr. Zalinger recused himself from the application. Kevin O'Connell chaired the discussion on the application for 17 Baldwin Street.

Mr. O'Connell administered the oath to Steve Everett.

Mr. DeSmet said Mr. Everett is proposing numerous exterior changes to a design review 5-unit building and a carriage house. At the same time he is requesting the change of use of the carriage house to an office space. Office space is currently a condition use approval in a Medium Density Residential District. The changes are anywhere from paint changes to roof changes and a 6' x 12' deck off of the carriage house.

Mr. O'Connell asked Mr. DeSmet to summarize what the Design Review Committee suggested.

Mr. DeSmet said the Design Review Committee recommended approval as proposed with clarification that the proposed deck shall be the exact detail and materials to match the existing deck on the main dwelling. The applicant may pursue at his own discretion the repair or replacement of the existing foundation to match the existing style of stone.

The reason he wants to make the changes is for general maintenance of the building. It needs painting. The roof needs to be replaced. Most of the change has to do with maintaining the building with regard to the design issues. There are no major changes to the exterior of the building. Most of it is repairing what is already there. The deck is being added to allow some potential future use. Since there is already a doorway there that accesses something from the past. There is a doorway that opens to a space about 10 feet off the ground so that is the reason for installing the deck.

Mr. DeSmet asked if the roof had different shingles on each side.

Mr. Everett replied yes. There were grey shingles, black shingles and old wood shakes that are covered with moss.

Mr. Lindley asked what the carriage house is used for now.

Mr. Everett said presently it is used as a storage building. The idea of upgrading it is the proposal for the change of use to have an office there which would help amortize the cost of renovating the building.

Mr. O'Connell said the plan would be to do these improvements and then perhaps it would be a rental. Mr. Everett agreed that was right.

Mr. Everett said there is an original painting done by Gilman in the late 1800's that shows the buildings there as a similar reddish brown color. A deep red color is a traditional color for carriage houses, particularly ones that have been detached from 100 year old dwellings.

Mr. O'Connell told the DRB they had two things to review, the conditional use and the site plan review. He would propose they just follow the outline in the packets for the conditional use and then the site plan.

Mr. Richardson said looking through the table of uses in Section 606 office use under Medium Density Residential sites, note 5 says only in large institutional properties and then cites the exceptions in Section 608(a), which defines large institutional properties as properties containing a minimum of 10 acres. Is that applicable to this application?

Mr. DeSmet said he didn't think it is. It seems like an error in the ordinance to him.

The DRB reviewed the conditional use criteria. Conditional use may be approved only if the DRB determines that the proposed use does not adversely affect the following

- a) The capacity of existing or planned community facilities;
The addition of the office space in the carriage house, how many employees is that being built to accommodate? Does he already have a tenant?
Mr. Everett said there are several people who are interested. It would probably be used for a lobbyist's office or a small nonprofit. It's not a huge building so you would be looking at 5 to 6 employees tops. There is more than sufficient parking currently without making any additional changes.
Mr. O'Connell asked if that would be in keeping with the activity on Baldwin Street.
Mr. Everett said this particular house faces Baldwin, Bailey and Terrace Streets. The building if you are going up Bailey Avenue, which is the predominant access, the building below it is the Vermont Land Trust, which is offices; the building below that is a real estate office, and as you turn onto Terrace the building adjacent is a private residence with an out building that has been converted to office use. There are offices surrounding it and across the street is the civic district.
- b) The character of the area affected, as defined by the purpose(s) of the zoning district within which the project is located, and specific stated policies and standards of the Montpelier Municipal Plan.
They just covered the character of the area, and it is in keeping with the current activity within that area.
- c) Traffic on roads and highways in the vicinity;
We stated there might be 5 or 6 additional employees that would make that many new vehicles in the area but low intensity use. Perhaps 1 or 2 per vehicle trips in and out. Being a block from the State House Mr. Everett said he would expect no more than that.
- d) The Zoning and Subdivision Regulations in effect; and
- e) The utilization of renewable energy sources.

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

- a) The performance standards (§714);
- b) Site plan review standards and approval conditions in §306.C;
- c) The cumulative impact of the proposal's failure, if applicable, to fully satisfy each of the conditional use standards in §§304.D and 712;
- d) The noise generated per unit; and
- e) Any other factors judged to have an adverse impact on the area.

It doesn't seem that too much of that is relevant to this project.

Mr. Lindley moved conditional use approval for 17 Baldwin Street, with Mr. Blakeman seconding the motion. The motion passed on a vote of 6 to 0.

Mr. Cranse said they just did site plan because it is under conditional use criteria.

Mr. Richardson moved for design review approval at 17 Baldwin Street with the adjustment to the scope from the Design Review Committee to duplicate materials and details to match the existing dwelling and the option to repair or replace the existing foundation to match the existing style. Mr. Cranse seconded the motion. The motion passed on a vote of 6 to 0.

Mr. Richardson asked Mr. DeSmet to clarify the Section 606 issue be clarified. It seems inconsistent and doesn't seem to have a basis needed on any of the zoning ordinances. It would be really nice to know if that is a binding and applicable standard.

(Phil Zalinger re-joins the meeting)

VI. 566 Cityside Drive, Unit 86 – LDR/MDR
Ratification of Minor Amendment to Approved PUD
Applicant: Paul Hanlon/Jill Skilling
Owner: Susan Weber

Mr. Zalinger said the property didn't exist when the Mylar was recorded without the proper stamp and signature on it. There is a provision in the zoning ordinance that addresses how to remediate the situation. It is under relevant criteria in the staff report. The problem is that the statute provides for a certain set of steps that have to be taken in order to effect the subdivision and the creation of the separate interests in the real estate. If they are not addressed most municipalities have amended their zoning ordinances to provide a means of remediating that impasse of having the applicant avoid reapplying for the subdivision permit or the PUD amendment that created the separate interest in real estate from the beginning. This allows the DRB to step in midway through the process and ratify the plan that was improperly recorded. Improper recordation involved simply the absence of the necessary signature.

Mr. Cranse said the Board doesn't have to examine any of the documents.

Mr. O'Connell asked if he could have Clancy summarize this.

Mr. DeSmet said they didn't sign the final Mylar within 180 days. It is simply a signature issue.

Mr. Zalinger said that is why the zoning ordinance has the remediation process in it to simplify it.

Mr. Hanlon and Ms. Skilling, his paralegal, appeared before the Board.

Mr. Zalinger said the Board started to discuss this application earlier because their agenda went much faster than they anticipated.

Mr. Zalinger administered the oath to Paul Hanlon and Jill Skilling.

He said as they discussed earlier it appears that approving this amendment to the PUD was recorded without the appropriate stamp and signature of the presiding Chair of the DRB. Because Vermont statute requires that the creation of subdivided interests in real property to be evidenced by a Mylar bearing that notation and recorded in the land records our zoning ordinance has a provision by which to remediate the situation we are faced with now and where the Mylar did not have the appropriate notation. The DRB has discussed briefly the remedial provisions of our statute.

Mr. O'Connell said it seems like a very straight forward item they have to act on.

Mr. Lindley asked if all of the properties up there in the subdivision were affected because it wasn't signed.

Mr. Hanlon said the three condominium subdivision.

Mr. Zalinger said he thinks it is necessary for the DRB to determine and find that the plot as recorded is identical to the plot as approved.

Mr. Lindley said he presumes that staff can confirm it is the same.

Mr. DeSmet said yes, they have confirmed it.

Mr. Zalinger said they need to make that finding. He asked Clancy if he had looked at the recorded Mylar and compared it to the Mylar that was submitted to the DRB. Is it identical?

Mr. DeSmet said it is.

Mr. Zalinger asked Mr. Hanlon if he concurred with that analysis.

Mr. Hanlon said he does.

Mr. Zalinger said in the Board's packets is a ratification document that Paul Hanlon prepared on our behalf.

Mr. O'Connell said in his time on the Board he believes this is the first time he has seen this process. He would like a short summary as to how this process came about. Is this new with the most recent revision?

Mr. DeSmet said he did not have the tenure to know whether that was there before or not. The applicant actually pointed it out to him. There have been other subdivisions that have come and gone and the person either did not want to pursue the approval.

Mr. O'Connell asked how many of these may be in the files in the Planning Office.

Mr. DeSmet said the last one that happened to was 133 Towne Hill Road.

Mr. Zalinger said it is an administrative solution to what has the potential to be a legal impediment.

Mr. O'Connell said this seems to be a very reasonable approach as long as the comparison is made so we know that we are looking at the same map.

Mr. O'Connell moved the DRB accept the minor amendment to the PUD.

Mr. Zalinger said they have already accepted the minor amendment to the PUD. The motion should be to ratify and confirm the approval. The motion should have two elements. One is that the plot that's recorded is identical

to the plot that was reviewed and approved. Secondly, the Board ratifies and confirms the plot that is recorded as being in fact that plot that was approved. Mr. O'Connell moved the motion with Mr. Cranse seconding the motion.

Mr. Hanlon asked if they were going to adopt the ratification form. Is that subsumed in the motion?

Mr. Zalinger said it is evidence of what the Board's action is. The ratification and confirmation authorizes him to sign this. The language he has included here states that the plot was recorded on November 21st is found to be identical to the plot approved by the DRB on October 25, 2007 and shall be deemed.

The vote on the motion was a vote of 6 to 0.

Adjournment:

Upon motion by Mr. Blakeman and Mr. Richardson, the Development Review Board adjourned on a vote of 7 to 0.

Respectfully submitted,

Clancy DeSmet
Planning and Zoning Administrator