

Montpelier Development Review Board
February 17, 2009
City Council Chambers, City Hall

Subject to Review and Approval

Present: Philip Zalinger, 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 meeting of the February 17, 2009 Montpelier Development Review Board to order at 7:00 P.M.

Review of February 2, 2009 Minutes:

Upon motion by Jack Lindley, seconded by Alan Blakeman, the minutes of the February 2, 2009 meeting were adopted on a vote of 6 to 0.

I. 4 Main Street CB-I/DCD/FP

Applicant: Darryl L. Johnson, Harriman Architects & Engineers
Owner: Pomerleau Family Partnership
Addition of a canopy over existing receiving lift.

Mr. Zalinger told Mr. Johnson that the Design Review Committee recommended approval with an optional change that the applicant may pursue at its discretion. He asked Mr. Johnson if he had made a decision about what he will do with that item.

Mr. Johnson shared the sketch of the small condensing unit and the larger refrigeration compressor/condensing unit which they intend to put on the ground. They have been informed that they need to install that above the base.

Mr. Zalinger asked Clancy DeSmet what was option that the DRC recommended.

Mr. DeSmet said the options were the down facing lights and the mechanical structure on the roof. He didn't think it was privy to have one in the floodplain go through without appropriate review. They brought it up at the hearing. He didn't know about it. He has contacted the Agency of Natural Resources and he is still waiting to hear from them. They should not seek approval of it because we haven't reviewed it. The DRC doesn't have jurisdiction over floodplain issues.

Mr. Zalinger explained that the DRC has design relevant jurisdiction.

Mr. DeSmet said it is floodplain approval and he hasn't received the information to tell him that it is meeting those requirements yet.

Mr. Zalinger said the alternative the DRC presented to the applicant was to use down facing light fixtures and the additional mechanical structure on the roof as necessary. He asked the applicant if he was in agreement with proceeding in that fashion. Mr. Johnson agreed that he was.

Mr. Lindley said his only question would be concerning noise from the compressors at the lot line. Do we have any evidence that they are going to be noisy compressors? Do they add already to the noise coming from the top of the building, and, if so, how much?

Mr. Johnson said they could provide that information. He doesn't have the information as far as the sound is concerned with him tonight.

Mr. Zalinger said they could take notice that the property line is the Winooski, the North Branch, and Main Street and the railroad right-of-way.

Mr. Lindley said there was quite a discussion about the noise on the compressors on the top of the Co-Op and having to deal with that issue because they were fairly noisy. He would hate to add more noise to the compressor capability in the city of Montpelier if it isn't necessary. He is content to let the staff administratively review the compressor noise issue and deal with it on an administrative fashion.

Mr. Zalinger said they can take notice of where it is located, however, and it is well away from the residential area that the Co-Op is situated in.

Mr. Richardson moved approval of the design review permit for 4 Main Street, with Mr. Hoff seconding the motion. The motion was approved on a vote of 7 to 0.

II. 152 State Street CB-II/DCD:

Applicant: Robert Perry

Owner: Robert E. & Vicki A. Perry

Replace existing signage.

This is an application for the replacement of existing signage on the service station situated at 152 Main Street. The Design Review Committee reviewed the application and recommended approval as proposed.

Mr. Richardson asked where exactly were the signs located.

Mr. Perry said there are one on the pole in front of the building and the panels on the pumps, as well as the sign on the side of the building.

Mr. Blakeman moved approval of the signs at Perry's Service Station at 152 State Street, with Mr. Cranse seconding the motion. The motion was approved on a vote of 7 to 0.

III. 159 State Street

Applicant: 159 State Street Associates

Owner: 159 State Street Associates

Add skylight.

Jack Lindley recused himself from participating in the discussion of the application.

Richard Brock said he is a 28 percent owner in the 159 State Street Associates. Mr. Lindley was the previous owner.

Mr. Zalinger said the Design Review Committee conducted review of this application and recommended approval with an adjustment.

Mr. DeSmet said the adjustment was that after they do some scoping as to what exists underneath some of the demolished railing they would come back with a design for a decorative railing at that time.

Mr. Zalinger asked what did the Design Review Committee approve.

Mr. DeSmet said they approved the placement of a skylight on the roof and the removal of the decorative railing and lattice that goes around the front and side.

Mr. Zalinger administered the oath to Richard Brock and Jack Lindley.

Mr. Zalinger asked if the first step was to remove the existing railing.

Mr. Brock replied correct, and then they want to see what is under there. The railing and the lattice work are pretty far gone. They have been an ongoing maintenance problem, and he doesn't think they can take them apart and put them back together to see what is underneath there. He is pretty sure when they take them apart they will fall apart.

Mr. Cranse asked what was the railing he was referring to.

Mr. Brock said there appears to be a concrete and stone structure under that.

Mr. Zalinger asked if there was any deferred maintenance by the previous owner.

Mr. Brock said not by the previous owner, but they have done quite a lot of maintenance. When they bought the building the late Margot George took him aside and explained to him what an important building this is. She said the railing is not consistent with federalist style. If you ever want to remove it the Heritage Group would support that.

Mr. Lindley said this is the oldest home in Montpelier, 1804. He owned it from 1970 to 1991. The picture they have in front of them that Rick has provided shows the chain link operation that was there when he took over. It had bricks covering it and it was sort of a hazard. They know what is underneath is concrete.

Mr. Zalinger said they are talking about the face.

Mr. Lindley replied that was correct.

Mr. Zalinger asked what is behind the face.

Mr. Lindley said it was concrete. It is about 48 inches high and 48 inches deep.

Mr. Zalinger asked what is on the surface behind the railing.

Mr. Lindley replied it was concrete. The wood has been removed so it is concrete. He went through with what Rick did with Margot George who was a historian of some magnitude. This structure was built in 1804 and probably had none of this in front of it in 1804. Rick's partially correct. Her suggestion was to remove the porch altogether because it was not consistent with the structure. He had an engineer look at it and you cannot remove the concrete without upsetting the whole building. As a concession to Margot George, those pictures he gave to the Board the oldest is 1920 when the Young's purchased that house from the Wright family. What had to transpire was that you have to cover up what you have for a mess. His concern is that the application calls for the removal of the railing and is not specific about what will be replaced when you remove the railing. He gave the board about 100 years of history in photographs that would indicate that the railing has been there for about 100 years. Obviously, in 1970 they replaced it. His concern as a citizen is that you remove the railing and the front of it and you have an awful looking chunk of concrete. The only way to deal with it is through some type of railing. The DRC in reviewing this really didn't do a very good job of understanding what Rick has for a problem and making a recommendation for this particular structure which is at the location which he considers to be one of the entrances to Montpelier and obviously built in 1804. He doesn't have any objection to the skylight.

Mr. Lindley said his concern is that until decisions are made on what you are going to hide it is really not a full permit to just have some demolition without a solution. He is surprised at the DRC not being concerned about that issue and from an aesthetic and historical view he believes somebody should pay attention to what happens once he removes the wood.

Mr. Lindley said he is supportive of Rick Brock because there is nothing you can do with the concrete underneath. He thinks if they used carbon dating it probably goes back to the invention of concrete, and it's harder than a rock. It is a solid structure and almost granite like.

His concern is they have half a project here and Rick is going to have to deal with it, and he isn't sure they should give permission for half a project.

Mr. Richardson said he shared the same concern when he reviewed the application. How much of the underlying concrete is visible? By removing the existing railing, what are you going to have access to in order to allow them and develop a replacement design they couldn't do ahead of time.

Mr. Lindley said it is a piece of concrete that will show and there is nothing they can do prior to that. If you go down the street and start at the corner white house there are bollards on those. If you go to the Jewett Inn, which is the structure just before this, they all have bollards. If you go to the Thompson Inn, which is two down, they all have bollards. The aesthetic part is the issue. Just straight up concrete he finds a little bit troubling. The applicant may give you a time frame, but there is nothing in here that says once he takes it off that anything will ever go back. The way the findings are put together it just says he will return to the DRC with a proposal. Is that 5 years or 10 years or 6 months? How much time are they dealing with here?

Mr. Hoff told Jack Lindley that if he understands his testimony correctly he is saying that once they get rid of the wooden structure you are going to just find a concrete platform and nothing else.

Mr. Lindley said they will notice the front door structure sits on top of the concrete, also. You just don't walk away from the concrete structure; it's there.

Mr. Brock said the steps are not covered and they are in front of the portico so they are exposed to the weather.

Mr. Lindley said the picture in Rick's application shows the bricks. They were able to remove bricks before they got to the wooden decking, and now the wooden decking has disappeared because of rot. The railing and the lattice work is the key to this. The concrete surface is well hidden if there is something in front of it.

Mr. Matzner asked Jack if they couldn't remove the platform without damaging the house.

Mr. Brock said it won't damage the house, but the wood is rotten.

Mr. Lindley said there is clearly a history of how the looked and Margot George helped them with restoring it. In the 1970's they didn't have to appear before the Design Review Committee, but the history of it demands that you pay attention to it.

Mr. Brock said he isn't sure the Design Review District is a problem. They did not specifically discuss with the Design Review Committee when they would come back. Some reasonable limitation within a year would be okay. If you look at the pictures there have been many different treatments. There is no historically accurate treatment at this point. There is one in the *Second Walk Through Montpelier* and two here. It is not obvious in the photos you see, but the whole front is landscaped. In the summer he doesn't know what they will see through the foliage.

Mr. Richardson asked what kind of options they had on the table.

Mr. Brock said they don't. They want to look at it when the weather allows and will want to consult with somebody who knows federalist style. They had some suggestions about that from Eric Gilbertson at the Design Review Committee.

Mr. Cranse said he somewhat agrees with Jack's testimony. Reading the regulations, 305(e) says required materials for this application. *Any application for construction, reconstruction or alteration of any structure shall include new structures or changes to existing structures and be clearly identified.* That suggests to him that a complete application would include not just the demolition or removal but what is going to replace it according to this regulation. He is rather surprised also that the Design Review Committee didn't read it this way.

Mr. Zalinger said he could conclude that there was an incomplete application if the remedy to the removal wasn't included. He understands they don't know what is there and you can't determine what you are going to replace it with until they know it is there.

Mr. Brock said they also don't know what condition it is in. Jack hasn't seen it since 1990, so a lot could have happened since then.

Mr. Hoff said from a design perspective is they are going to need a new railing and what structurally you need to support the railing, and what is underneath what you remove really doesn't have anything to do with the design. He doesn't see how their progress would be impeded by getting the design settled on before they demolish the existing railing and figure what it is going to be affixed to.

Mr. Brock said their information is that a railing would not have been part of the original federalist building. It is their understanding that this kind of house was built in 1808. He isn't sure they want a railing. It is high maintenance, they don't use it, and it is essentially entirely decorative. He isn't prepared to concede that they would agree with a railing at this point but will consider it.

Mr. Richardson said he doesn't think it is the intent of this board to force the applicant into any kind of commitment or particular design style. He shares the other board members concerns which are knowing his commitment here to putting up a railing is one thing but it sets a bad precedent for the board to simply let demolition occur as an open ended construct without some kind of design in place. He can certainly sympathize with the idea that he doesn't know what he can do until he knows what is there. He would be curious where Jack came up with the number 1804.

Mr. Lindley said it is well documented and Rick could go back and do a title search and find 1804. The History of Walk Through Montpelier indicates 1809 or 1808. That house, just as an aside, was part of the underground railway. In fact, behind the chimneys inside of the house there is a small room in which they hid people. The house has a rich history. Reverend Wright was the first minister to come to town for the Bethany Church and was driven from town originally.

Mr. Richardson asked Clancy to what extent was it his authority to oversee any kind of testing to be done short of removal.

Mr. DeSmet said he is not certain. The Design Review Committee was satisfied that Rick Brock was going to come back. He realizes it is unorthodox.

Mr. Richardson said he is satisfied he would come back as well, but at the same time he is very leery setting any kind of precedent or making a decision with that being open ended because the law firm could dissolve tomorrow through no fault of their own.

Mr. Zalinger said in his experience it is unusual. He is surprised the Design Review Committee heard the application in the first instance. Now they are in a box. The Design Review Committee has approved it and there seems to be some hesitancy on this board's part to approve removal without a plan or at least a timeframe what the replacement will be. The authority of this board originates from withholding approval for the beginning of a project until all aspects of the project are known, so if they proceed and provide authority to remove what is there and find themselves in another box. That box is they come back with suggestions for alternatives and the Design Review Committee doesn't approve them or they don't approve them, they can't compel them to keep coming back nor can they compel him to replace what they have removed. The most kind of protection the applicant will see from procedural alternatives is to table the application and wait 60 days, test what is there and satisfy yourselves and your contractor as to what is behind it and beneath it and look at alternatives and come back with a complete application they feel meets their post removal objectives.

Mr. Brock asked if they could approve the skylight tonight.

Mr. Zalinger replied yes. The skylight presents no problem.

Mr. Cranse said he was fine with that.

Mr. Blakeman asked what happens with the lattice work.

Mr. Brock said they would like to remove it. The railing and lattice work are very high maintenance. In fact, it all came about because they needed some extra work after the last few heavy snow winters. Their painter said to them this summer that they needed to do something about this. They either have to rebuild it completely or get rid of it because it won't even hold paint. This is New England. No one uses the front door. Everyone uses the kitchen door. The front door is in effect a stately fire entrance. The skylight is on the very back up over the garage space, although that is an inhabited space. Contrary to what Jack says, the light comes through the snow.

Mr. Richardson said he has proposed skylights and there is always a concern about water and ice getting in there.

Mr. Brock said that is one of the reasons they did it without a permit. When they were re-roofing they said if we were going to put a skylight in we needed to do it before the roof or it would never be right. They took a chance that the board would approve it ex post facto.

Mr. Zalinger asked how the board felt about approving the skylight this evening and tabling the rest of the demolition and replacement of the façade of the porch until a later date at which time the applicant will have further information about what the replacement might be.

Mr. Cranse said he was in agreement and he thinks the applicant should take the removal and replacement to the Design Review Committee again.

Mr. Brock said they will start over.

Mr. Zalinger said they could table this to a date certain. They could choose their second meeting in May. This would give him ample opportunity. They would continue the application until May 18th and request that the applicant return to the Design Review Committee with the results of the inspection and the proposed alternative treatment to the area. He will have to do that far enough in advance to get back here on May 18th.

Mr. Zalinger asked if there were any adjoining property owners who wished to be heard.

Mr. Richardson moved that the DRB table the application concerning the demolition of the front railing and lattice work at 159 State Street to May 18th and approve the skylight as approved by the Design Review Committee. Mr. Blakeman seconded the motion. The motion was passed on a vote of 7 to 0.

IV. Site Plan Review – CB-II/DCD/FP

32 East State Street

Applicant: Joff Cowan

Owner: Joffrey & Susan B. Cowan

Change of Use from office to two-bedroom apartment within a pre-existing multi unit building.

Mr. Zalinger administered the oath to Joff Cowan.

Mr. DeSmet said Mr. Cowan requests site plan review for the change of use from office to a two-bedroom apartment on the parcel located at 32 East State Street. Currently, there are six residential units and one office use. There are approximately 9 parking spaces. The applicant proposes to add a residential unit and reduce the space of one office use to approximately 775 square feet.

Mr. Blakeman said he is curious that Mr. Cowan is talking about having one space to be shared by an office.

Mr. Cowan said he was in front of this body 10 years ago, and at the time to change the use to be an office. It was residential. He added two parking spots that were available to make that happen. When he came back 10 years later that exact same project if he had done it then would have required 3 more parking spaces than what he has.

In going back to the residential he is still shy one parking spot from what he needs in terms of 24 hour usage. There are three options for parking. One of the options is to have a shared space. In terms of the office, he is the only one in it currently, so from a practical matter there isn't going to be a problem with parking. Switching back to residential use he will write into the lease what their rights are for half-time parking.

Mr. Lindley asked if he could tell them why he would have an impact fee of \$250. Is there any reason we need to charge the fee? The applicant is just bringing the space back to what it was as residential. How does the language read with regard to the impact fee?

Mr. DeSmet said for any developed located within the city of Montpelier for which a zoning or subdivision permit is required is hereby imposed an impact fee which will be computed and assessed in accordance with the formula and methodology.

Mr. Lindley said if he breaks the apartment into two single bedroom apartments, does he have another fee?

Mr. DeSmet said it is assessed per unit.

Mr. Zalinger inquired if there were any adjoining property owners present who wanted to be heard.

Mr. Matzner said he is curious as to which of the parking spaces will be shared. Are they assigned?

Mr. Cowan replied yes.

Mr. DeSmet said if you look at § 705(i), shared use parking, spaces may be counted towards satisfying the parking requirement for more than one use if approved by the DRB after a showing by the applicant that spaces will be used at different times.

Mr. Zalinger said he is certainly sympathetic to this kind of situation where there is no expansion of the footprint of the building and there is no square footage being placed into service that wasn't already in service for a different use.

Mr. Zalinger said he is going to run down the site plan review criteria very briefly because there is not a lot of substance to the matter before the DRB. There doesn't appear to be any adverse impacts on the streets, pedestrian access and circulation or vehicular access and circulation. Parking and loading are already addressed. Landscaping and screening, there shouldn't be any need for additional treatment. There are no changes proposed for lighting. The performance standards won't be affected because it is the conversion of commercial use to a two-bedroom residential unit.

Mr. Lindley moved approval of Site Plan Review for 32 East State Street as proposed with no conditions. Mr. Hoff seconded the motion. The motion passed on a vote of 7 to 0 and site plan approval was granted.

V. Site Plan Review

North Branch Park – Gould Hill Road – REC

Applicant: Howard Danyew, Montpelier Track Makers

Owner: City of Montpelier

Replace existing bridge and trail improvements

Tom Frostick, member of the Montpelier Track Makers, appeared before the DRB. Geoff Beyer, Montpelier Parks Director, appeared before the DRB. Mr. Zalinger administered the oath to the applicants.

Mr. Frostick said the Montpelier Track Makers are asking for a permit to build a bridge and cut across the city property.

Mr. Zalinger said the Development Review Board doesn't have authority over the use of the city's property. They just have authority over what happens on the property under zoning. Bill Fraser and the City Council have

authority over what happens on the city-owned property and the DRB just has jurisdiction over the zoning aspects.

Mr. Frostick said he is here to apply for a building permit he didn't know he needed.

Mr. DeSmet said the applicant is requesting site plan review approval of the construction of a trail with an associated structure.

Mr. Zalinger asked if it was 470 feet of new trail.

Mr. Frostick replied that was correct. The trail that was there they upgraded it across the bridge and put culverts in to the Gould Hill Road side of it.

Mr. Zalinger said they all understand this is an "as built" project. There is no need for the applicant to go into great depth about what they plan to do because it has already been executed. If the interested parties wish to be heard and comment upon what is there, this is the appropriate time.

Geoff Beyer, Director of Montpelier Parks, said he had been in conversation with Tom Frostick from the Montpelier Snowmobile Club and actually there is a signature from Brian Watson on an agreement. The trail is what it is now. There is a certain amount of work being done, and they have a written agreement for that, and the Park Commissioners are quite comfortable moving forward on this basis given there is no conflict with the neighbors. They have worked out a plan he thinks will be successful in completing the trail work. The only remaining issue for them is that things are clear with the neighbors.

Mr. Hoff asked if he would run through the scope of work that is happening.

Mr. Beyer said there are several key things regarding erosion control and water bars and getting water off the trail so erosion isn't an issue. Completing a gate at the entrance so that there isn't an inappropriate use of vehicles. Right now you can drive a truck down it and right across the bridge into the woods and create trail damage and erosion problems not to mention park management problems. The gate would restrict vehicle traffic without restricting pedestrian or snowmobile traffic.

Mr. Cranse said the copy Geoff gave the DRB wasn't signed.

Mr. Beyer said he had two signed copies. Brian Watson, the Executive Director of VAST, has signed it

Mr. Frostick said this has been a voluntary club activity to build the trail and VAST has backed them with the equipment and paid for mulch. They have mulched and put culverts in.

Mr. Richardson asked if this was a commitment on the group's part.

Mr. Frostick replied that this was to be finished up as soon as the weather broke. They scrambled to get it where we are before bad and wet weather set in and would ruin everything. They know they have to install a gate as soon as possible.

Mr. Zalinger said they were going to ask him some questions about the Memorandum of Agreement. Is it his view that the city's Parks Commission has authority to enforce this?

Mr. Beyer replied yes.

Mr. Zalinger asked in what way.

Mr. Beyer said the Parks Department and the Parks Commission and Bill Fraser have granted permission to use the land.

Mr. Zalinger said it is a license rather than an easement.

Mr. Beyer replied it is not a guaranteed use. It's a friendly community permission to use the trails.

Mr. Zalinger said it is through revocation of that license that the city intends to insure that enforcement occurs.

Mr. Beyer said that would be the worst case scenario.

Mr. Frostick said the 470 feet of trail they have built here took them out of the main part of the park. It took all of the snowmobile traffic out of the recreational field, so the only ones down there now are local people in and out of town.

Mr. Zalinger asked if all 470 feet was on city owned property.

Mr. Beyer said the trail is much longer than that, but what they are asking for here tonight only crosses that much city land.

Steven Syz, a property abutter across the street, appeared before the DRB said some years ago he and his wife Lynne gave this land in question to the city so it was contiguous with the rest of the North Branch River Park and made it accessible from Gould Hill Road. They wanted to keep the land open. From their perspective it is one of the more beautiful parks in the park system. Although at first blush it was a noticeable change to see the trail coming through, in retrospect they are very pleased to see what has happened for a couple of reasons. First, it adds another dimension to the use of the park and there are other trails that feed into the snowmobile trails that can be used by cross country skiers. This trail itself could be used by cross country skiers. Other trails feed into it, and it is also good for snow shoeing and hiking and increases the use of the park.

Secondly, in the area just beyond where the trail crosses a little brook, there was a steep area which was almost continuously flowing clay. This trail has intercepted that water and it will ultimately improve the water quality of the stream by eliminating that flow. There is a lot of clay up in that area. By opening it up a little bit, by seeding and mulching it, letting it grow in the summer time, the grasses will stabilize the soil.

Mr. Syz said in these two ways the trail will be an asset to the park. They have continued their permission to use our land across the street through the field and gravel pit. It goes down the hill to Pearl Street Motors and then up to Worcester and provide a linkage in this trail system.

Mr. Zalinger asked Steve Syz if he had read the Memorandum Agreement between the Parks Department and the Snowmobile Club.

Mr. Syz said he had not.

Brian Watson, Executive Director of VAST, said they had caused quite a commotion here. The projects they normally do are done to very high standards. He gave the DRB a copy of the VAST Guide to the Development of Snowmobile Trails for the state of Vermont. This manual has been designed by the International Association of Snowmobile Administrators in conjunction with the United States Forest Service and is an accepted manual for the design and construction of snowmobile trails not only in the United States but also in Canada and Europe. If there are things in here they have not complied with as they went through the project, and as they have signed on with the agreement, they are in full agreement that whatever they did that does not meet those standards they will correct.

Mr. Zalinger said the DRB depends on order and sequence and he finds that the site plan review has a lot of elements that they are charged with reviewing that the remediation is addressed in the Memorandum of Agreement. He is wondering from the city's perspective as the party charged with responsibility for this area whether they think it is necessary for the DRB to include in the zoning permit conditions that mirror those addressed in the Memorandum of Agreement.

Mr. Beyer said for the Park Commission's sake he doesn't believe it is necessary given the agreement that Brian has signed.

Mr. Zalinger said the DRB could make affirmative findings on the elements of the zoning ordinance that apply to site protection and design, contours, erosion and sediment control. They could make findings that conclude that the Memorandum of Agreement will adequately address all of those features. If they do that and issue a decision, then zoning approval gets issued and it is over. He suspects that if there is an issue of noncompliance the zoning administrator could issue a notice of violation because there would be an issue of noncompliance. The problem they have is that if the standards and the conditions aren't set forth at great length in the zoning ordinance then they have a hard time knowing what they are enforcing. They could issue a generic general permit that concludes that these standards have been met but the enforceability of the zoning permit will not provide much in the way of detail or specificity and they are not going to be able to rely upon the zoning permit if there are issues of noncompliance. The only way they will be able to rely upon the zoning permit for issues of noncompliance is to somehow remove all of the details of remediation and will have to put them in the zoning permit. That is why he is asking whether he thinks it is necessary or not.

Mr. Beyer said he thinks they are on a positive side with the signed agreement. Between the agreement and the public hearing he thinks they are on a positive track.

Mr. Cranse said the general permit procedures in Article II says that no zoning permit is required under § 202(h) for outdoor recreational trails, including snowmobile trails, which do not require the installation of structures or parking areas. This does require a zoning permit because there is a structure. Is the zoning permit for the whole trail, or just for the bridge?

Mr. DeSmet said it is for the whole trail. It is a development that requires site plan review that is not a single or two-family dwelling. According to the ordinance all development involving nonresidential multi-family uses shall be reviewed by the Development Review Board to insure the compatibility with the location, promote the highest quality design and to prevent or mitigate negative impacts resulting from the development.

Mr. Richardson said § 202(h) seems to only exempt outdoor recreation trails that meet a very specific criteria, which do not require structures.

Mr. Cranse said if it requires a structure then the whole trail needs a permit.

Mr. DeSmet said it is a non-residential use.

Mr. Zalinger said you can't take the language in the application and place it in the zoning permit. It would take a great deal of time to craft that language as conditions to the zoning permit.

Mr. Syz said he was pleased to see this in a written document. He has two suggestions. One is that there is the old bridge, which is lying in the woods, and he thinks that could be put to some good use perhaps somewhere else in the park. He would certainly like to see that not wasted. Secondly, he would hate to see a big metal fence across there as a gate. On Berlin Pond, on the far side where they have the trail head, they have rocks that are too narrow for a car but wide enough for snowmobiles and ATVs that might be considered.

Mr. Frostick said the groomer would have to be able to get through.

Mr. Zalinger said he is sure if the parties have gotten as far as execution of the Memorandum of Agreement that they can continue in that spirit and identify a design for the gate that is sympathetic with the surrounding area.

Mr. Blakeman asked if the trail was grandfathered. He understands they are not supposed to have snowmobiles in the city limits, or is he wrong?

Mr. Frostick said they are permitted in North Branch Park on designated trails.

Mr. Blakeman asked if he was correct that Hubbard Park can't have snowmobiles.

Mr. Beyer said Hubbard Park is not supposed to have snowmobiles except when authorized for maintenance.

Mr. Blakeman said some of the people on the Conservation Commission said this is a deer yard. He is concerned they would be having snowmobiles going through a deer yard.

Mr. Frostick said the deer yard, to his knowledge, is above on the high side. The snowmobile trail is below the deer yard.

Mr. Beyer said it does go through a designated state deer yard. Snowmobiles themselves don't bother deer at all. The potential for damage to deer yards is if the act is to give access to dogs. If there are unrestricted dogs in the neighborhood they can freely harass the deer in a deer yard. He isn't familiar with that many dogs that are out of control in the area that might do that.

Mr. Blakeman asked if ATVs were allowed.

Mr. Frostick replied no, absolutely not.

Mr. Blakeman said Mr. Frostick went to see Bill Fraser, the City Manager, and he gave you permission.

Mr. Frostick said he signed a permission slip for them to cross the property.

Mr. Zalinger said these were all issues addressed at the last meeting. The solution of all of that was that the group comes back and sought a zoning permit.

A member of the audience said he would like to make one comment on the use of ATVs. There is a possibility there will be motorized vehicles when they are working on that section of the trail, such as an ATV to carry hay. It's not an open access trail for ATVs, but they may have a work vehicle in there for maintenance.

Mr. Richardson moved approval for the site plan review of the snowmobile trail in the North Branch Park off of Gould Hill Road. Mr. Matzner seconded the motion.

Mr. Blakeman said he would like to offer a friendly amendment to include the gate.

Mr. Zalinger said he would suggest that conditions be imposed consistent with the Memorandum of Agreement with the Parks Department and the project would go forward in conformance with the terms and conditions of the agreement.

Mr. Richardson said he would accept the friendly amendment. He moved for approval of the site plan review for the snowmobile trail at the North Branch Park off of Gould Hill Road with conditions consistent and in conformity with the Memorandum of Understanding signed by the parties and the Montpelier Parks Department. Mr. Matzner seconded the motion. The vote on the motion was in favor 7 to 0 and site plan approval was granted.

Adjournment:

Upon motion by Jeremy Hoff, seconded by Daniel Richardson, the Development Review Board adjourned.

Respectfully submitted,

Clancy DeSmet
Planning & Zoning Administrator