

**Montpelier Development Review Board**  
**May 17, 2010**  
**City Council Chambers, City Hall**

*Subject to Review and Approval*

**Present:** Philip Zalinger, Chair; Kevin O'Connell, Vice Chair; Daniel Richardson, Alan Blakeman, Jack Lindley, Jeremy Hoff and Roger Cranse.  
Staff: Gwen Hallsmith, Director, Planning and Community Development.

**Call to Order:**

The meeting of the Montpelier Development Review Board was called to order by Phil Zalinger, Chair.

**Review of Minutes of May 3, 2010:**

Mr. O'Connell said the last item the Board was addressing on the minutes of May 3<sup>rd</sup> was the property on Elm Street. It was inconclusive to him on how we had left it. Mr. Richardson said it didn't seem to include the motion that was made.

Mr. O'Connell said that was critical.

Mr. Richardson said they never got to address the variance. There were a number of different theories presented. It was a lot that straddled Middlesex. The Middlesex portion of it had a house and the land committed for it through the Middlesex permit as came out in the evidence. They wanted to keep both the house they had built and an existing mobile home. The Board made a determination that the square footage of the new house was over 2,000 square feet but that the mobile home would have been an accessory structure.

Mr. Lindley said it was less than 50 percent of the home and therefore no variance was required. They couldn't have granted a variance anyway because there was a problem with the criteria. It was an under sized lot for the minimum acreage and they had two houses.

Mr. O'Connell said by considering the mobile home as an accessory structure they got away from having to figure out the Middlesex portion versus the Montpelier portion and the fact that the 1.9 acres being the Montpelier portion having two structures was going to create issues as well.

Mr. Lindley said they made a motion to direct Clancy to draft a department decision construing the project as constituting an accessory structure and not a variance.

Mr. Zalinger said that is in Clancy's notes because nothing has been given to the Board to sign.

Mr. O'Connell said that is missing at this point.

Mr. Zalinger asked if there were any comments about the site plan review for 27 Franklin Street. He said he thought they could bifurcate their vote on the minutes to disapprove the minutes for 3360 Elm Street because they clearly don't reflect what transpired and simply the minutes as they pertain to 27 Franklin Street.

Mr. Lindley moved that the minutes as printed with regard to 27 Franklin Street be accepted. Mr. Blakeman seconded the motion. The portion of the minutes of May 3, 2010 relating to 27 Franklin Street was adopted on a unanimous vote of those members attending the May 3<sup>rd</sup> meeting. The minutes for 3360 Elm Street haven't been considered because the Board's view is they are incomplete.

**I. 24 North Street (HDR/DCD)**

Design Review for a rear deck & exterior renovations

Owner/Applicant: Steven and Bonnie Burkholder

Ms. Hallsmith said this application is listed on the consent agenda, but she believes there is a variance involved with this, too. There is a nonconformity involved in the deck. Clancy said it appears to be a good case for a variance because it is a very small lot and this is the only way they can get safe access to their house.

Mr. Lindley said in reading the documents this weekend he did not think it was a consent item and they needed to grant a variance for a deck. He doesn't know if it is properly warned or not. Obviously, the Design Review Committee has no problem with what is going on, but it looks like the numbers don't work right without a variance.

Ms. Hallsmith replied that was correct.

Mr. Lindley said maybe the applicant can enlighten him as to why a variance is not needed.

Ms. Hallsmith said they have made an application for a variance in addition to the design review issues that are addressed.

Mr. Zalinger asked if the file contained the warning.

Mr. O'Connell said the Board's agenda doesn't have the variance.

Mr. Zalinger said it was warned for a variance.

Ms. Hallsmith said the notice reads: "Also in accordance with 24 V.S.A. § 4464(a)(1)(c) as amended in the 2003 legislative session if the project you are interested in there is a public hearing for a conditional use review variance, administrative officer appeal or a final plot review your participation at the hearing would be required in order to preserve your right to appeal the Board's decision, should you desire."

Mr. Zalinger said the variance is for a rear yard setback. The rear yard setback is 30 feet in HDR and the proposal is that the deck will be anywhere from 4 to 10 feet from the rear property line. The variance would be anywhere from 26 feet to 20 feet. He asked Mr. Burkholder if he agreed.

Mr. Burkholder said he doesn't understand what they are talking about.

Ms. Hallsmith said there are two types of approval that are needed for the deck. One is design review. That is the Development Review Board's Consent Agenda because the DRC has said it is fine with them as far as the design is concerned. But the part they are concerned with tonight that is outside of design review is the variance you need because the deck will be coming a little too close to the lines of the property. You addressed these issues in your variance application. You described the fact that without the variance you wouldn't have safe access to the back of your house.

Mr. Zalinger said when they appear before the Design Review Committee generally speaking the DRB doesn't reconsider the elements of the project that the Design Review Committee considers unless the Board members have specific questions and observations. It appears that the Design Review Committee unanimously approved the application as presented.

Mr. Zalinger administered the oath to Steven Burkholder.

Mr. Zalinger asked the DRB members if they had any comments, questions or observations about the design review elements of the project.

Mr. Blakeman moved approval of the 24 North Street design review approval. Mr. Richardson seconded the motion. The motion passed unanimously on a vote of 7 to 0 for design review approval of the project.

Mr. Zalinger said a more substantive matter is the request for a variance. There are setback requirements under the zoning ordinance that say you can't initiate construction within the setback area. He has asked for a variance from the 30 foot setback to build a deck anywhere from 4 to 10 feet from the rear property line.

Mr. Lindley said he understands that line is with the Montpelier Middle School property line. Is that correct?

Mr. Burkholder said no, it is an adjacent property he happens to own. He owns the Main Street property, 176 Main Street.

Mr. Zalinger said there is a parcel identified as 24 North Street on the map. The deck is being placed on 24 North Street and not 176 Main Street. Is that correct?

Mr. Burkholder replied yes.

Mr. Zalinger said in the interest of full disclosure it occurred to him that in his capacity as a private attorney he is representing the City of Montpelier and the School Board in connection with the preparation of deeds to be exchanged between Mr. and Mrs. Burkholder and the city for a right-of-way and their other neighbor at 172 Main Street. He doesn't think he has a conflict here. He asked Mr. Burkholder if he had any objection to Mr. Zalinger continuing to chair the Board. Mr. Burkholder replied he did not.

Mr. Zalinger said the variance criteria are fairly stringent and there is no way to encapsulate them so he is going to review them one by one.

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

- a. There are unique physical circumstances or conditions, including the irregularity, narrowness or the shallowness of a lot's size or shape, or the exceptional topographical or other physical conditions peculiar to this property and that unnecessary hardship results as a reason of those conditions and not the circumstances or conditions generally created by the provisions by the zoning regulation in this neighborhood or the district in which the property is located.*

Mr. Zalinger asked Mr. Burkholder if he knew when the lot was created.

Mr. Burkholder replied he didn't know when it was actually created. He is under the impression that the property does not meet any of the city's criteria as far as setbacks from angle of the building whatsoever.

Mr. Zalinger asked if it would be fair to say that the rear of the building is already within the setback.

Mr. Burkholder said he believed it is.

Mr. Zalinger said the plan the Board has shows a photograph of the house, but it doesn't show the setting of the house on the lot. He would imagine that the rear of the building is already in the rear setback.

Ms. Hallsmith said 30 feet is required.

Mr. Lindley asked if he knew when the house was built.

Mr. Burkholder said he believed in the late 1800's.

Mr. Zalinger said he believes it predates the zoning ordinance which was created in 1973. The rear of the house is already in the setback. He asked if the deck was going to have a roof.

Mr. Burkholder replied no.

Mr. Zalinger asked if he could tell them some about his motivations for the deck.

Mr. Burkholder said the building they purchased is at 24 North Street. They intend to remodel it and make it their primary residence. They have the permit to do the interior modifications so the exterior is last on their list for completion. The issue is that the narrowness of the driveway, which is adjacent to their neighbor's driveway as well, is extremely narrow. The kitchen door will not facilitate a vehicle parking in that space and access into the building. The designer of the kitchen has suggested that if they put a deck on the back and a rear entry that it indeed would be much easier for a person or family to access the kitchen area and make it the rear entry for 24 North Street. The land behind there is adjacent to a property he now owns and is now just a parking lot so there is no usable space there for anything other than possibly a deck. This seemed to work nicely with the plan for the house and for the kitchen itself. Instead of a door facing up North Street you will see a kitchen window and a driveway.

Mr. Zalinger asked if the parking area would remain where it is now.

Mr. Burkholder replied it would.

Mr. Zalinger said they would walk around the side of the house to the rear entry.

Mr. Burkholder said another thing that is quite unique about this building is the driveway is on the same level and there will be no step up to the deck which may facilitate a handicapped accessible entry.

Mr. Cranse said he is a little confused by the drawings. The deck will provide a new entry, right?

Mr. Burkholder replied yes.

Mr. Cranse said it looks like you need stairs to get up to the deck.

Mr. Zalinger said the propane tanks on the top photo, and now locates them on the bottom photo. The propane tanks will probably be removed.

Mr. Cranse asked what the dimensions of the deck were. Is it 22' x 7'?

Mr. Burkholder said that is correct.

Mr. Zalinger said they have established that the structure was erected in 1897. They are unsure when the lot was created but very confident it was before 1973 which predates the zoning ordinance. The existing building is already within the 30 foot rear yard setback.

- b. *Because of these physical conditions or circumstances 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.*

He thinks it is fair to say with a house of this age that is already constructed within the rear yard setback that strict application of the setback would prohibit any use of the rear of the building. Indeed, even a doorway or any kind of a stairway would require a variance.

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

He thinks it is clear that this relates to the property and the location of the building on a pre-existing nonconforming lot with a residence that is already constructed within the setback.

Mr. Zalinger asked Mr. Burkholder if the building was going to continue to be a single family residential structure.

Mr. Burkholder replied it will.

- d. *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, not be detrimental to the public welfare.*

Mr. Zalinger said it looks like the area on the adjacent property is used as parking area only and is graveled right up to the property line. Is the property line fenced?

Mr. Burkholder replied there is a small fence to shield construction material.

Mr. Zalinger asked if there wasn't a 4 foot fence around the school's property.

Mr. Burkholder said yes, the school has their fence surrounding the basketball court.

Mr. Zalinger said he doesn't think it is going to impair the appropriate use or development of the adjacent property. Reducing access to renewable energy resources is not applicable and he can't think of a reason why this might 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 least deviation possible from the zoning regulation and from the Montpelier Municipal Plan.*

Mr. Zalinger asked if he knew the dimensions of the door he is going to install in the rear of the building.

Mr. Burkholder said he believes it is a standard 32 inch wide by 79 inch door.

Mr. Zalinger said a two-way door once it is opened if he doesn't have a 7 foot wide deck he will have less than 4 feet for folks to pass around or use the door safely.

Mr. Burkholder said it would be an in-swing door. This is a Therma Tru door which is designed to be a storm door as well.

Mr. Lindley said if they put a screen on it they can't put the screen door inside.

Mr. Zalinger said they are trying to make a case that a deck of anything less than 7 feet wide would minimize the utility of it and in the long run be somewhat unsafe.

f. *The variance will not result in the initiation of a nonconforming use of land.*

They have heard testimony that this will continue as a residential use

Mr. Blakeman asked Mr. Burkholder if there would be two doors to the house.

Mr. Burkholder replied yes.

Mr. Richardson moved they grant a variance for 24 North Street for the building of the deck within the rear setback years as proposed, and Mr. O'Connell seconded the motion. The variance was granted on a vote of 6 to 0.

**II. Site Plan Review for a 3 Unit Condominium – HDR (Continued)**

27 Franklin Street

Owner/Applicant: Ali Sarafzade

Interested Parties: Dave Frothingham, Brian Lane-Karnas, Bob Provost and Rick DeWolfe.

Mr. Zalinger said Ken and Jeremy aren't present so leave a board of five who heard evidence last week or a board of 6 if the applicant wants the Chair to continue to sit and review the record before us, including the minutes and materials submitted beforehand.

Mr. Lane-Karnas said the applicant wishes the Chair to sit.

Mr. O'Connell said he would encourage him to review the previous record.

Mr. Zalinger said there is a sitting board of 6 to hear the continuation of the site plan review at 27 Franklin Street.

Mr. Zalinger administered the oath.

Mr. DeWolfe said he would have Brian Lane-Karnas brief them where they are because he was present at the prior meeting.

Mr. Lane-Karnas said at the last meeting the one real outstanding issue for the project is the matter of access and circulation of the driveway. They are proposing a 48 foot driveway curb cut which then narrows to three 12 foot individual drives separated by planters. There is some discussion as to the safety and efficiency of this driveway in regards to pedestrians and school children walking back and forth to school.

Jeremy Hoff arrived at the meeting.

Mr. Lane-Karnas said at the last meeting they presented the original proposal plus two options where they attempted to show a driveway that was more in compliance with the access management guidelines, i.e. a neck down to a smaller drive entrance at the curb cut. Based on the evidence presented at the last meeting both of the two options were attempting to neck down the driveway resulted in a smaller site distance at the curb line for cars exiting from the center driveway with vehicles parked in the left and right hand driveways as well.

According to the last meeting evolved in a letter outlining in their letter outlining their analysis of traffic at the site. On May 11<sup>th</sup> they performed traffic counts at the property. They did an AM and a PM count and counted cars in 15 minute increments until they could achieve the hourly greatest density of pedestrians and vehicles which were not the same hour in either case. The quick results of their traffic study were that in the AM peak hour there was a volume of 37 vehicles, and that peak hour is between 7:45 and 8:45 AM. The AM peak for pedestrians was 24 pedestrians between 7:15 and 8:15 AM. In the PM peak hour, the volume was 50 vehicles between 4:45 and 5:45 PM; the peak pedestrian traffic in the PM was 48 pedestrians between 2:45 and 3:45 PM. They also included the results of a traffic study that was conducted by the Agency of Transportation on Elm Street between Spring and Winter Streets, which is basically across the river from this project, just to give the Board some context for another road he feels most people would be familiar with. For the Elm Street count they only had vehicle volumes. The AM peak was 462 and the PM was 528. Traffic passing by the Franklin Street project is approximately 1/10<sup>th</sup> of that which goes by that section of Elm Street.

Additionally, they calculated project generated trips based on information published by the Institute of Traffic Engineers which is the standard reference for calculating development generated trips. The ITE information indicates that the project can be expected to generate 2 trips during the PM hour and 1 trip during the AM hour.

Mr. Zalinger said the ITE said there will only be one car exiting each morning and 2 cars returning at night.

Mr. DeWolfe said in the peak hour of traffic they would expect three units to generate a single trip.

Mr. Lane-Karnas said that is the peak hour of adjacent vehicle traffic which in this case is 7:45 to 8:45 AM. Those numbers are based on a regression analysis of studying similar developments. Also in the results of their study you will note that the PM peak pedestrian traffic is significantly offset from the PM vehicular traffic. Pedestrian traffic occurring between 2:45 and 3:45 PM, mostly associated with the school, and then vehicle traffic not peaking until 4:45 to 5:45 PM, which is more than likely associated with people coming home from work. During the PM peak hour the potential for conflict between pedestrians and vehicles is mitigated by the fact that peak hours are offset from each other so you can expect cars from the project will more likely be entering the property at that 4:45 to 5:45 PM hour rather than the 2:45 to 3:45 time when the children are coming home from school.

During the AM peak hour there is a half hour of overlap between the peak pedestrian traffic and the peak vehicle traffic. However, the volume during the AM hour was half that of the PM hour as far as pedestrians are concerned. If you consider the pedestrian traffic the average over the hour you have one pedestrian passing by every 2.5 minutes on the average. Their conclusion is that given the gap between the average pedestrian coming by that there is a low enough volume on the street to safely accommodate the vehicles that would be exiting the trip during the AM peak hour.

They also took a closer look at some other curb cuts in the neighborhood. There are several other curb cuts larger than a typical width in the neighborhood. The most similar development with a wider than meeting the guidelines curb cut is an apartment building at 14 Franklin Street which is towards the school from the development. They discussed it briefly at the last hearing. It is the white building with the columns in front. The curb cut at that location is 36 ½ feet wide and it consists of head-in parking spaces and one thru drive located adjacent to the head-in parking spaces that leads to three additional parking spaces in the rear of the building. Given that there are several other curb cuts that are this wide in the neighborhood pedestrians walking down the street are aware of the kind of traffic that is being generated by these large curb cuts. Their development is not creating more hazard than other existing developments in the neighborhood.

Mr. O'Connell asked if the building across the street was a multi-unit building.

Mr. Lane-Karnas replied yes, it is an apartment building. There are 5 or 6 units in it.

Mr. Zalinger asked if wasn't there evidence last week that the only sidewalk is on this side of Franklin Street.

Mr. Lane-Karnas replied that is correct.

Mr. Zalinger asked if the presence or absence of curb cuts on the other side of the street lead him to conclude that pedestrians would be steered to wider accesses on the side of the street with the sidewalk. They would have no experience with the curb cuts on the other side of the street, would they?

Mr. Lane-Karnas said pedestrians using the sidewalk may not. He observed the number of bicyclists that used the full travel width of the road in that area. Also, while the other drives to residences on that street on that area aren't as wide the large majority of them are basically graveled parking spots located immediately adjacent to the sidewalk. There are a number of other curb cuts down the street where people are backing from their space on to the street with limited visibility.

Mr. Zalinger said in summation it is already a mine field so everybody is already careful. Apparently, the Technical Review Committee's observations and comments on this matter were the cause of a good deal of question and answers and observations last week.

Mr. McArdle said he was impressed reading the minutes. There was quite a discussion and they are quite extensive. All of the members saw through the issue and very accurately interpreted their memo, including the part that was a little murky. He is also impressed with the amount of engineering effort that has gone into a residential property. There is certainly a little thought that has been put into this, but in their opinion the conclusions aren't right. In 2007 the City Council approved road standards for Montpelier and adopted many of the state standards which also deal with culverts. It includes a reference to a state standard B.71, which is a driveway design. Essentially, that restricts residential driveways to 24 feet. Really, what this amounts to is a variance of the standard. The standard being a one directional driveway for a single family, or even two or three units, and then you get into the larger developments which require an entrance and an exit and it is a roadway with a center line so there is one side for entering and one side for exiting.

As Brian mentioned in the presentation, he correctly points out what they are asking for is three side by side driveways.

Mr. Zalinger said when Tom said the City Council adopted this in 2007, this is not an ordinance. It is not in the zoning bylaws.

Mr. McArdle said the issuance of curb cuts falls under the discretion of the Director of Public Works, which falls under their purview. In fact, the DRB could grant this approval and the Director could still deny the curb cut. It has to do with activities, structures and standards on how they build and maintain a public highway.

Mr. Zalinger said it is important for the DRB to distinguish between them. He is pretty focused on staying within the purview of their jurisdiction here. They don't go grazing outside of their ordinances. It is important for them to distinguish between what the City Council adopts as a matter of policy for the way the city administers its roads and streets and how the DRB implements the zoning ordinance.

Mr. McArdle said the term guideline has been used here. When the City Council approved the standards they really need to follow that. A lot of it has to do with culverts, roadway, designs, and it is important for state grants they apply for and for FEMA funds. It also points out what the city would need to do in order

to approve this curb cut. It is essentially in their mind a variance of the standard to approve a 48 foot wide curb cut. What is the overall lot dimension of frontage?

Mr. Hoff said it is 67.2 feet.

Mr. McArdle said 80 percent of the frontage is used for driveway. There are a lot of things that concern them about that. The traffic study, although it puts it in writing, he think all of us knew that Franklin Street has very low traffic volumes and very low pedestrian volumes. It was interesting what Alan said about how the children get to the school, that they do use breaks in the gates paths to enter school grounds if they are coming from the other direction so that would explain the low pedestrian number by the front of the property. The reason he put in the last out for the DRB at the end was because he was so uncertain as to how really apply the standard. If this was a busier road with higher pedestrian volumes and higher traffic it is pretty certain they would clearly give direction or suggestion that a curb cut like that would not be approved. When we get into the low traffic volumes we have to ask ourselves if this is really necessary to apply a rigid application of the standard for low volume and low speed streets. Traffic is not a primary concern of theirs in this case. Traffic approaching from the Cross Street side, around that corner or on the opposite side of the street from a backing vehicle, he thinks there is adequate site distance for a vehicle that may be backing out of the driveway. Apart from maybe a bush at the corner of 29 Franklin Street there really aren't any major concerns for people walking along the street. It does present that opportunity with obstruction.

In fact, Brian in his illustration points that out in one of the options and shows a vehicle parked next to an exiting vehicle, and arguably that parked vehicle shouldn't be there in the first place. If it were a single car wide driveway for the standard that vehicle would be back further. To achieve parking for a three-car driveway, normally you would go further into the lot where you would then widen the driveway to meet the dimensions of the garage. In this case it is 20 to 25 feet to the edge of the street. If this building were moved back 15 to 20 feet you could have a standard driveway width and then widen out to meet the garage. The answer to that would be to require a variance, and a variance can't be obtained through your own hardship. Because you can't do that you are looking to vary the standard for the drive curb. Those two are in conflict, and that tells him something, that this is too big a driveway curb cut or too many units on the lot which leads to the width and the requests in the proposal for a driveway because of the lot size. It's a size 12 foot in a size 11 shoe.

He looked at the illustrations. It is clear they get into more trouble with trying to neck it down where he brought it down to 24 feet. He thinks Option 2 shows a vehicle parked to the side of the exiting vehicle. Is it now better? He doesn't believe so. The wider driveway then gives you the better site distance. If you get rid of the planter along the front of the street, and it looks like he has redrawn that to eliminate the 5 feet, he looks at the planter as a way of preventing five cars from parking there, which he thinks they could do with 48 feet pretty easily, and also a little bit of separation for a snow bank. People don't really shovel their driveways any more. They hire a contractor to plow it. Their first pass is to plow out to the right and the second pass is to the left, and then they will back drag and push, so here they will have a massive bank on the right and large snow bank on the left and along comes the sidewalk plow and he can't get through, which is a problem of plowing into the sidewalk. 48 feet is wider than most streets. Some of our busier streets aren't that wide. Main Street is 32 feet in front of the school. There is a driveway that is 16 feet wider than Main Street. Is that appropriate? And that is with a parking lot.

They would love to see higher density, but is this really the way to do it? He listened to the explanation and looked at the traffic study about other driveways. He gets concerned when he hears that. When examples of poor design are used to justify a noncompliant design where does that leave us? If the board decides to approve this, and he isn't sure the Director would approve the curb cut, and ultimately it is his signature on the permit, he thinks he has made a valid argument that notwithstanding snow removal concerns and other

precedent issues that design could be approved and not likely to have a pedestrian or vehicle collision as a result of it, that it is on a low speed and low pedestrian street, and if they are going to vary our standard they could do it here. He thinks they are feeling a little pressure too because they don't want to be the bad guy in the situation when Montpelier is actively pursuing increased housing density and infill development, but is this the place. What happens the next time a few years from now when an engineer sits here and says 27 Franklin Street has a 48 foot wide driveway?

Mr. Zalinger asked if there was parking on the other side of Franklin Street.

Mr. Lane-Karnas said parking is restricted from the far side and it is allowed on the side with the sidewalk. There is no parking on the north side. Parking is permitted on the south side if you can find an area that isn't a driveway.

Mr. McArdle said there is an ordinance that prohibits parking 5 feet of either side of a driveway.

Mr. Hoff asked what the maximum in the standard B.71 is.

Mr. McArdle replied 24.

Mr. Richardson asked if there was a reason why there hadn't been proposed three separate curb cuts for each of the driveways.

Mr. DeWolfe said if you look at B.71 it will talk about the minimum distance between driveways.

Mr. Lane-Karnas said it isn't sure it would make substantive difference to the safety issues. It might give the pedestrians more obvious places to stop. He doesn't think it would really restrict access to the lot.

Mr. DeWolfe said they could redraw that and make it look like three 12 foot driveways with two little pieces of sidewalk separating it. He thinks that is not how it will operate in the way Tom and they have looked at it. It is going to operate like a wider curb cut because they are all that close to each other. There is no way they can get any more separation than that.

Mr. Lane-Karnas said additionally considering wheelchairs or bikes on the sidewalk, if you have a sidewalk raised up in between three driveways it creates a little bit of an impediment than having a driveway dropped for the entire width.

Mr. O'Connell said the footprint of the development itself is driving the design of the driveway.

Mr. DeWolfe replied yes.

Mr. O'Connell said the development footprint is a consequence of the type of construction which is proposed which is prefabricated construction.

Mr. Lane-Karnas said they are modular.

Mr. O'Connell said it doesn't allow for a lot of flexibility and different configurations.

Mr. DeWolfe said essentially they are trying to create three narrow units and they are trying to create a covered parking space, a garage for each unit, and what they think will function as a parking space in front of that door. In their design they have contemplated the ability to park six vehicles off the street on this property to serve the three units. You could develop a tri-level home similar to Dorchester, Massachusetts.

You could put three units on that side and it would have almost an identical footprint and not have the off street parking with it. There is only 67 feet to work with in a lot width. They don't want to be paving the whole backyard to park vehicles in. He believes the zoning ordinances are encouraging the type of development they are doing plus encouraging the off street parking, and what they have tried to do here is meeting as many of those to the letter as they can. Essentially, the part they are having difficulties with is just the driveway entrance. Their feeling is that it isn't out of character with the neighborhood.

Mr. O'Connell said the conundrum he finds himself in is that he might agree with him in terms of this specific location and development but the Technical Review Committee are making the argument that this is out of standard with the adopted standards and that there are precedent issues that could be significant.

Mr. DeWolfe said in Tom's argument and their argument too, they are talking about a standard B.71 that covers any residential drive in the state of Vermont accessing a state highway. That is what it was developed for. It wasn't developed for a little narrow neighborhood street like this. We are not talking about street with heavy traffic and they tried to demonstrate that. There are a lot of other factors involved in the development here that make this acceptable as way to develop this lot to its potential use.

Ms. Hallsmith said she met with Todd today. Clancy briefed her on this case and said he had doubts whether Todd would grant the access permit for the driveway even if the DRB granted this permit. He thought there was some middle ground that could be found between relaxing the standards for the housing on site and relaxing the standards for the driveway, and it involved a rear yard variance. She is curious if that is what they had in mind, that they might move the building back.

Mr. McArdle said he was using that to demonstrate how a driveway would be constructed that would not require a variation of the standard, that if the parking were further removed from the street that it could begin with as a standard driveway width and then widen out as it goes into the property. The building moved back even 20 feet would provide enough swing room to come into the garage and it didn't have a second parking space. The vehicles showed in the illustration are all parked here in the six parking spaces. If the building is moved back there would be additional throat length to the driveway. It would require this application to apply for a variance and the way the variance is structured by ordinance you cannot create your own hardship so it wouldn't likely be approved.

Mr. DeWolfe said they are talking about taking a building and giving it a front yard setback of 30 to 40 feet when the neighboring properties are all built up to the sidewalk.

Mr. McArdle said the neighboring properties are all single family homes. This is a different situation. That is not a characterization of what is happening.

Mr. DeWolfe said these are three single family units connected. He doesn't disagree with Tom's statement, but the way they will function is not like an apartment building but functions more like a single family unit.

Mr. Hoff said the planting boxes that will separate the three parking spaces are they considered structures under the zoning ordinance?

Mr. DeWolfe replied no. It is a curbed planting area. There will be a 7 inch curb around them.

Mr. Zalinger asked if there was any more testimony or questions concerning streets, pedestrian access and circulation, vehicular access and circulation and parking.

Mr. McArdle said they reference ITE. That is the appropriate reference, but what they are finding is that it is a bigger number than what actually happens. He wouldn't expect 6 vehicles here. He wouldn't be

surprised if one of the units didn't even have a vehicle. That seems to be real common in the downtown. He believes on Barre Street all of the buildings' parking lots are 30 to 40 percent open. He is not convinced there will be 3 cars inside and 3 outside. With the garage door closed he is sure somebody will park outside when it is nice weather.

Mr. Lane-Karnas said he wanted to point out that the illustrations of the site distance were intended to illustrate the worst case scenario as far as site distance at the curb and not the expected parking arrangement at the development.

Mr. Zalinger asked if there were any questions about landscaping, screening or lighting. It doesn't appear to him to be any other issues under site plan review. How does the Board wish to proceed?

Mr. O'Connell said it would seem appropriate at this point to act on the application as presented.

Mr. Zalinger said he would suggest they have a deliberative session and weigh the evidence, discuss this amongst the Board.

Mr. Lindley moved the DRB take this application for 27 Franklin Street in deliberative session, with Mr. O'Connell seconding the motion.

Mr. Zalinger said he thinks they will have a better ability to sort through the materials and discuss it amongst ourselves than if they proceed in open setting such as this. Does the applicant have any more evidence they wish to enter? If not, Jack will withdraw his motion.

Mr. Zalinger said the motion is withdrawn. An appropriate motion will close the evidence and take the matter under consideration. The Board will issue a decision in the very near future.

Mr. Richardson moved they closed the evidence on the application for 27 Franklin Street. Mr. Hoff seconded the motion. The vote passed on a vote of 7 to 0.

**Adjournment:**

Upon motion by Mr. Lindley and Mr. Cranse, the Development Review Board adjourned.

Respectfully submitted,

Clancy DeSmet  
Planning and Zoning Administrator

Transcribed by: Joan Clack