

Montpelier Development Review Board
October 3, 2011
City Council Chambers, City Hall

Approved

Present: Philip Zalinger, Chair; Kevin O’Connell, Vice Chair; Daniel Richardson, Ali Sarafzadeh and James LaMonda.
Staff: Clancy DeSmet, Planning & Zoning Administrator

Call to Order:

Philip Zalinger, Chair, called the meeting to order at 7:00 P.M.

Review and Approval of September 6, 2011 Minutes:

Upon a motion duly made by Mr. Richardson and Mr. O’Connell the Minutes of the September 6, 2011 were adopted on a vote of 5 to 0.

Comments by Chair:

Mr. Zalinger explained that the Design Review Committee is advisory to the Development Review Board. Unless there are other comments and observations that this body has about the review the applicant has already undergone the Board generally accepts the recommendation of the Design Review Committee for Consent Agenda items.

I. 12 Hillside Avenue – CB-II/DCD

Owner/Applicant: Paul Dayton
Design Review for replacing roof.

The Design Review Committee reviewed this application at its September 27th meeting and recommended approval as proposed.

Mr. O’Connell moved the application for 12 Hillside Avenue as proposed and recommended for approval by the Design Review Committee. Mr. LaMonda seconded the motion. The application was approved on a vote of 5 to 0.

II. 64 Main Street – CB-I/DCD

Owner: Steve Lewinstein
Applicant: Mark Smith
Design Review for replacing 18 windows

Mark Smith, contractor and manager of the property, appeared on behalf of the owner.

This application was reviewed by the Design Review Committee at its September 27th meeting and recommended for approval with a clarification that all of the windows will be 6 over 6. The applicant is in agreement with the condition.

Mr. Richardson moved for design review approval at 64 Main Street with the condition that all 18 of the windows be replaced with 6 over 6 widows. Mr. Sarafzadeh seconded the motion. The motion was approved on a vote of 5 to 0.

III. 100 State Street – CB-I/DCD

Owner: Capital Plaza Corp.

Applicant: Sammel Sign Co., Roger Sammel

Design Review for a ground sign

Interested Parties: Fred Bashara and Brian Kane, Capital Plaza, and Eileen Bradley from Northfield Savings Bank

Mr. Zalinger reminded Mr. Sammel he was still under oath and administered the oath to the other interested parties.

Mr. Sammel said they asked for a continuance at the last meeting so they could rescale the sign proposal to be in accordance with the zoning regulations. The 72 inch width and 26 inch height for Capital Plaza and the Northfield Savings Bank width of 72 inches, 38 inches overall, plus the pig comes to a total of 65.2 square feet. Allowable square footage is 75 square feet counting both sides. They are asking they be able to utilize 10 foot posts to display the signs.

Mr. Zalinger said when this matter went before the Design Review Committee the first time, did it go back again?

Mr. Sammel replied no.

Mr. Zalinger asked if it was the recommendation of the Design Review Committee that the height of the post be feet.

Mr. Sammel said 8 feet was their recommendation, but then it puts the bottom of the Northfield sign only 18 inches off the ground so it can't be seen with cars parked around it. It makes it ineffective.

Mr. Bashara said he took pictures of both areas coming in and out.

Mr. Sammel said in accordance with the zoning regulations they are allowed for up to 20 feet in height and they are only asking for half of that.

Mr. Sarafzadeh asked who owns the parking spots directly in front of the signs.

Mr. Bashara said the hotel owns all of the lots but the city has the right to use them, which they do. They shuttle people daily to another parking lot, including their own employees.

Mr. O'Connell asked Mr. Bashara if he was aware of the situation they had with the Vermont State Employees Credit Union sign and their proposal which was ultimately approved by this body. They had proposed a sign of a height of 10 or 11 feet, and after discussion with this board where they got into this being a gateway coming into the Capital District and a sign of the proportions using the Credit Union looked more like a billboard rather than a sign. The discussion they had at their last meeting drew some parallels between this proposal and the proposal that the Credit Union initially had. The Credit Union very graciously came in and had a reduced scale sign which made the Board's job a lot easier. He personally sees this at a scale that is out of proportion to the other signage in the district.

Mr. Bashara asked if it was the entire district or just the one street.

Mr. O'Connell said he is talking about the Capital District in general.

Mr. Bashara said the Credit Union across the High School is a different story. You can actually see it from a long ways away. You can't see a single thing here until you get down the street.

Mr. O'Connor asked if he could remove one parking spot and have the sign become more visible.

Mr. Bashara replied they are short parking now and shuttling people now to another parking area. In the wintertime the snow builds up. This is a major entrance for the bank for their drive-up and their parking area.

Mr. Zalinger said they don't always expect the applicants to appreciate the Boards' perspective. They try to appreciate the applicant's perspectives. He will point out that if 20 feet is the maximum in the city he challenges him to find a sign that is 20 feet tall that is not related to highway, commercial or garage or a gas station. If you look at the other signs on this small street, Peoples United just changed all their signage and came back five times because there were discussions about the banding they were going to put on the front of the building. Their signage for their drive-up is very quiet and discreet.

Mr. Bashara added there is also no parking on that side.

Mr. Zalinger reminded Mr. Bashara that perhaps this is not the best location for a sign.

Mr. Bashara said the sign has always been there and they want to improve it.

Mr. Zalinger said he finds the size excessive and out of proportion to other signage in the area and he found that with the Credit Union sign as well. In that location it seems like a billboard. When he looks at other signs around the city very rarely signs that are incompatible with the surrounding area are proposed much less permitted. The reason he needs a sign of this size is because the location you have chosen for the sign is a challenged location. They understand Capital Plaza wants to advertise its location. It has been there for many decades without a sign at this location. The Northfield Savings Bank has had that facility for 15 years with this sign as the only identification on that street for its location. He understands when commercial businesses come in and say this is how the public is going to find us; this is what we need to identify where our business is. Apparently, for many, many years these businesses have succeeded without a 10 foot sign at this location. It's a challenged location and he thinks he in his professional capacity would acknowledge that, that this is a challenged location because it is right adjacent to parking that obstructs the sign from at least one direction.

Mr. Sammel said it isn't a challenge if they are allowed to propose a sign that is within the guidelines of the regulations. They have already conceded to reducing the size from the 8 foot width they originally proposed to the other committee and agreed to come into compliance with the square footage by reducing the width to the 6 foot. It is true they are advertising two businesses instead of one so it does require more space. In terms of defining what a billboard is he is very restricted in his business in a lot of towns and billboards are much larger than this. When this sign gets put into that setting he doesn't think it is going to look as enormous as they are imagining that it will.

Brian Kane was administered the oath by Mr. Zalinger. He is the Sales Director for the Capital Plaza. They have survived for 17 years without that particular sign. The situation he deals with quite a bit is they are a local business and do the locals know where to go off Taylor Street and through the back. The answer typically is yes, but we are a business that does a lot of conferences that people come from out of the region. The official directory business signs lead them through Taylor Street if you are coming from Route 2. Because of that they felt when Northfield Savings Bank was considering doing another sign that it would be a service to those people who don't know Montpelier to come off Taylor Street and find the back parking lot. Frankly, it's a service to those people who don't know our area than it is to the people who really do know our backyard. Yes, they have survived for those 17 years without the particular sign. When Eileen and he started talking about the sign aesthetically Taylor Street is not an award winner so they thought this was a nice cooperative effort for two businesses to be able to share a sign on an

existing particular spot and hopefully beautify things a little bit. The newest thing they are dealing with now is random undefined parking on the railroad track side that happens each morning, many from the state workers and some from their conference attendees. There is no official parking on that side but it happens every day. After Vermont Transit was gone and after the Carr Lot was closed down it's a morning race for those spots. The city doesn't look after those spots.

Mr. Richardson said their purpose for the sign was for out-of-town people coming from Memorial Drive on to Taylor Street.

Mr. Kane replied that is correct.

Mr. Richardson asked if it was considered to move the sign further towards Taylor Street. It is set back a fair amount in the picture.

Mr. Bashara said he didn't think they could because of the setback. He doesn't want to be in the city's setback.

Mr. Richardson said the main purpose of the sign is to capture people coming in from Memorial Drive north on Taylor Street and not the opposite of people coming from State Street down Taylor Street. Was there any consideration given to putting the sign closer to the building on the opposite side of the lot?

Mr. Sammel said yes they did consider that but it would be a one-sided sign. The other official business directory sign, if you are coming from the highway the OBDS has you take a left on Bailey Street and a right on to State Street so they get to where Peoples United Bank is.

Mr. Richardson said the primary purpose is to notify people who are coming off of Memorial Drive. It would seem much more functional to put it against the building because then you wouldn't run into it. The final point he would like to make is that it is common in a street like this that has a perception that it's not the nicest street. What harm is it to continue? That's the wrong attitude to take and he would be against the proposal on those grounds because then the street will never have any hope of getting better or improving. He thinks the city is invested in refurbishing that bridge so to put it out that it is simply a street that isn't as well manicured as State Street in front of the Capital does a disservice to the street and some of the city's investments, both now and in the future when the Carr Lot is rehabilitated.

Mr. Zalinger said it is a challenging area in a challenged location. Is there any interest to mounting the sign to the wall?

Mr. Bashara said it is one-sided and you won't be seeing it from State Street.

Mr. Sammel asked if it would be acceptable to the DRB to make a compromise at 9 feet and split the difference between their 10 foot asking height and the 8 foot committee recommendation.

Mr. Zalinger said in all his years on the Board he has never engaged in that kind of negotiation. Certainly if they want to modify or amend the application as we sit here he is sure the Board would take it under advisement.

Mr. Sarafzadeh said their resistance to reducing the sign has to do with the fact that the Northfield Savings Bank sign would be too low to the ground. When he is looking at the scale he is curious if there has been discussion with resizing the Northfield Savings Bank sign because it is about twice the size of the Capital Plaza sign. He is curious if their issue with the height dealt with by redesigning the sign.

Mr. Sammel said one of the caveats for the Northfield sign was this is their brand and logo. This is also the sign design they are utilizing throughout the state and they wanted to maintain that consistency in the branding.

Mr. Sarafzadeh said he would suggest there may be an opportunity to simply resize the Northfield Savings Bank sign.

Mr. Sammel said there was discussion about that and they decided they wanted to maintain the brand of the bank.

Eileen Bradley said they are redoing their signs throughout their 13 branches and trying to keep then same design.

Mr. Sarafzadeh said it is not unusual, especially in this district, for banks to compromise in their signs despite having a standardized signage system throughout the state simply because we are the capital and this is the Capital District.

Mr. LaMonda asked what the height of the existing sign was.

Mr. Sammel said from the ground to the top of the post it is 67 inches.

Mr. LaMonda said they are talking about the parking spaces and he understands parking spaces are at a premium. When he looks at a sign with a mini van parked in front of the sign, which pretty much obscures it, you go into parking garages and get to park in spaces that say mini or economy cars only to have some control over the size of the vehicle you have there. When he sees a picture with a mini van parked in front of it it does completely obscure it. With a smaller car there will it be as much of an issue?

Mr. Zalinger said he isn't sure the railroad right-of-way doesn't already include the area underneath the existing Northfield Savings Bank.

Mr. Zalinger said as a member of this Board he never likes to interfere with commerce in the city of Montpelier. There are times he thinks the sense you have from the city of Montpelier that is in the aggregate built from the nuts and bolts of our zoning ordinance from the care that the district that begins across the district is its own ordinance. The flavor of Montpelier comes in small increments from all of these little pieces as they get built. When the state puts up its signage for the State House and what offices are in the Pavilion it is done with its own flavor. The signage up through the city is done with it is own flavor. Not everyone always makes an effort to maximize their entitlement under the zoning ordinance. We get a great kick out of the marquis at the theater. When he goes out and the marquis is on it is always just a "kick" and everybody who comes to Montpelier enjoys having the marquis lit. The truth is that it is not permissible under our existing zoning ordinance and we are all happy and grateful that it is grandfathered. There are nuances around the city with older and newer buildings, and there is a thread of scale and appropriateness. Not everyone tries to maximize what their entitlement is. He understands 20 feet is the maximum entitlement, but we don't see that except on Memorial Drive and that is for gas prices. His sense is that this is a very challenging location. You have two businesses. One is the lessor and one is the lessee and they both want to be on the sign. You find yourselves trying to negotiate these other issues of the challenging location, the railroad right-of-way, the utility poles and the relationship between the parties so the result is you have designed a sign that you can agree upon but he as one member feel it is doing a disservice to the presentation on the State Street side of both of these premises. He doesn't think either party would design this and use this location if it was their druthers. It ended up here because of the facts and circumstances. You ended up with this presentation. That isn't justification in his mind for a sign of this size and scale right across the street from the Capital District.

Mr. Sammel said even though it is in compliance with the current regulations.

Mr. Richardson said the size limits that are put on the tables in § 504.D. are only one part of the sign standards and they represent what he considers a ceiling. Then you go back to § 504.A. and that is where you get into the softer issues we have to apply as a Development Review Board and those are design review, consistency and character of signage in the area issues on which we wrestle with. He would reflect the Chair's position that they do not want to deny your signage necessary to conduct your business and carry on. If anything he thinks the conversation they have tried to engage is one of saying these other options to avoid a situation where it seems we are just saying no, he would echo as well that this seems to be a sign that is designed by circumstances rather than one that is desirable for the street.

Mr. Sammel said when they took it back to the drawing board they thought they were being sensitive to the Board's request and viewpoints. Again, because it is a challenging situation they felt it was a good compromise. He thought the purpose of this meeting was to come to an understanding they could all agree upon. If they can modify the height to the 9 foot size that would be agreeable to them.

Mr. Zalinger asked if they wanted the DRB to consider the application as amended.

Mr. Sammel replied that would be fine.

Mr. Zalinger said a wall mounted sign is the best solution because you don't worry about parking or snow removal. Yes, it is one-sided but the limitations on area they have been constrained by in this situation are no longer applicable. It would give them the ability to use arrows to explain more detail than they would be able to achieve here. It isn't the most direct way to access the Northfield Savings Bank. If it were a wall mounted sign they could include more detail and more graphic direction in the sign without being constrained. He asked if there was more evidence they would like to introduce.

Mr. Bashara and Mr. Sammel replied no.

Mr. Zalinger asked if the Board wanted to deliberate about this.

Mr. O'Connell said he would recommend they take it under advisement and Mr. Richardson agreed.

Mr. Zalinger said if there is no further evidence the Board will close the record, deliberate and issue a decision in the very near future. They have amended the application to have a height of 9 feet on the posts.

Mr. Richardson asked if there was any consideration giving to having a hanging sign.

Mr. Sammel replied he didn't see how that would make a difference. They were trying to maintain the consistency of sign for all of the branches of the bank.

Mr. Zalinger said the DRB would never change an application to something that suits the Board. They can either approve an application or withhold approval of an application. The application has been amended to 9 feet.

Mr. Richardson moved the DRB close the evidence and takes the application under advisement. Mr. O'Connell seconded the motion. The vote was favorable 5 to 0.

IV. 13 Cross Street – HDR
Owner: Kevin Wilkinson

Applicant: The Mountain Shop c/o Jean LaCroix
Variance Request from rear setback for 16' x 20' shed

Mr. Zalinger administered the oath to the applicant.

Mr. DeSmet said the applicant requests a variance from the rear yard setback for a 16' x 20' garden shed in the rear of the property. There are no existing dimensional nonconformities. The existing residential structure is conforming. The applicant seeks a 25' incursion to the 30' rear yard setback. One of the outstanding items was additional evidence of anything that would be exceptional to this property. Mr. LaCroix brought in photographs of the site corresponding to locations on the property and a building plan. He included a topography showing 5' contours. If you look at that in conjunction with some of the photographs and you can see the area.

Mr. Zalinger asked if the property directly behind Cross State was the Main Street Middle School.

Mr. DeSmet replied sort of. The school is the parcel to the southwest. The direct parcel behind their property is 32 North Street.

Mr. Zalinger asked if the folks at 32 North Street had received notice.

Mr. DeSmet replied they provided a letter. Mr. Ewing said he did not object.

Mr. O'Connell asked if there currently existed a fence in the back of the property.

Mr. LaCroix replied mostly trees.

Mr. Sarafzadeh asked if the shed had a second story.

Mr. LaCroix replied there is a loft. It is 7' from the loft floor to the peak of the roof.

The DRB reviewed the variance criteria.

Variance Criteria: §1006.B(a)(a)-(f)

- a) *That there are unique physical circumstances or conditions, including irregularity, narrowness, or shallowness of lots 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. Zalinger asked the applicant to explain to the Board why the shed couldn't be closer to the house.

Mr. LaCroix said it is directly related to the elevation and grade of the lot. The location proposed for the shed allows 4' walkway between the front of the shed and where the grade starts to go up. This would allow for better drainage.

- 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.*

Mr. Zalinger said he thinks an argument could be made that in order to achieve the 30' setback the shed would have to be built within the slope that is shown in photo 1, which is clearly untenable. The question becomes what is the extent of the variance.

- 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.*

The topography of the land is clearly the source of the hardship.

- 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.*

He thinks there is evidence that adjoining property owners haven't objected. He would also point out there is a 6' or 8' fence that encloses the entire Main Street Middle School. Mr. DeSmet said it is 12'. That by itself is a distinguishing characteristic in this area. There aren't many high density residential neighborhoods that have a whole series of homes that have chain link fences. There is a stockade fence at 32 North Street on the east side of the lot. The essential character of this neighborhood is rather distinctive by reason of that many barriers in the immediate location. He thinks this is consistent with some of the older neighborhoods in the city. There is evidence that the adjoining property owner hasn't objected to it.

- 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.*

They could ask the applicant to move it back 2', but it doesn't really seem to appreciably change the significance of it and 4' is based upon the design of the shed. If you only have four feet around it this makes it hard to get a canoe in.

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

This is an accessory structure to a residential use and will continue as such.

Mr. O'Connell said he is more at ease with this design now that they see what the details are. One of the concerns expressed at the last meeting was that by the size this could become an ancillary living quarters. It looks like a shed to him. If a future owner wanted to convert the shed it would require additional permitting.

Mr. Zalinger said it would never receive a building permit for occupancy.

Mr. O'Connell said he is prepared to vote for the application.

Mr. O'Connell move to approve the application as presented this evening for 13 Cross Street for a variance. James LaMonda seconded the motion which was approved on a vote of

5 to 0.

Adjournment:

Upon a motion duly made by Mr. Richardson and Mr. O'Connell the meeting adjourned.

Respectfully submitted,

Clancy DeSmet
Planning & Zoning Administrator

Transcribed by: Joan Clack