

VERMONT ENVIRONMENTAL BOARD  
10 V.S.A. Chapter 151

RE: Middlebury College by Findings of Fact,  
Austin D. Hart, Esq. Conclusions of Law,  
Dinse, Erdmann & Clapp and Order,  
209 Battery Street Land Use Permit  
P.O. Box 988 #9A0177-EB  
Burlington, VT 05402-0988

This decision pertains to an appeal by the State of Vermont, Division for Historic Preservation regarding a permit issued to Middlebury College authorizing construction of additions to McCullough Gymnasium on the Middlebury College campus. As is explained below, the Board concludes that the proposed additions do not have an undue adverse effect on a historic site.

I. SUMMARY OF PROCEEDINGS

On April 18, 1989, the District #9 Environmental Commission issued Land Use Permit #9A0177 to Middlebury College (the College), authorizing the College to renovate and make additions to McCullough Gymnasium (the Gymnasium). The renovated building will be used as a student activities center. On May 17, 1989, the State of Vermont, Division for Historic Preservation (the State) filed an appeal of the permit with the Environmental Board.

On June 14, 1989, Environmental Board Chairman Leonard U. Wilson convened a prehearing conference in Middlebury, Vermont, with the College and the State participating. The Board issued a prehearing conference report and order on June 26, setting a hearing date of August 2.

On July 7, 1989, both the College and the State filed memoranda of law concerning the standards the Board should use in evaluating undue adverse effects on historic sites. On July 26, the parties filed prefiled testimony. On July 28, the State filed an objection to the testimony of the College's witness Malcolm Holzman. On that date, the Applicant filed a response to the objection. On August 1, the Board issued a memorandum sustaining the objection, postponing the hearing, and ordering the College to file complete testimony for Mr. Holzman. On August 18, the College filed revised prefiled testimony for Mr. Holzman. On August 31, the State filed rebuttal testimony.

On September 6, 1989, the Board convened a public hearing in Middlebury, Vermont, during which it took a brief recess for a site visit. The Board reconvened the hearing on October 18. Witnesses at both hearings included

members of the Vermont Advisory Council on Historic Preservation. After hearing testimony, the Board recessed the hearing pending filing of legal briefs and proposed findings of fact and conclusions of law, review of the record, and preparation of a decision. On November 6, the parties filed legal briefs and proposed findings of fact and conclusions of law. The Board reviewed the record, and deliberated on November 16 and December 6 in Montpelier, and on January 10, 1990, in Quechee. On January 10, 1990, the Board determined that the record was complete and adjourned the hearing. This matter is now ready for decision. To the extent the parties' proposed findings of fact and conclusions of law are included below, said requests to find and conclude are granted; otherwise, the requests are denied.

## II. ISSUE IN THE APPEAL

The issue before the Board is whether, pursuant to 10 V.S.A. § 6086(a)(8) (Criterion 8), the proposed additions to the Gymnasium will have an undue adverse effect on an historic site. The case centers on the external effects of the proposed additions and internal renovation is not at issue.

## III. FINDINGS OF FACT

### A. The Existing Campus

1. For nearly two hundred years, Middlebury College has played a significant role in the history of the City of Middlebury and of higher education in Vermont. The College is a liberal arts institution. Part of its mission is a dual objective: to respect the past, while moving forward into the future.
2. The Middlebury College campus (the Campus) is an evolved complex of interrelated, monumental buildings placed in a landscaped setting which draws the buildings together as an integral unit. For this reason, the Campus represents college campuses in general, which are a unique contribution of the United States (U.S.) to architectural history. The classic campus design typically includes buildings which are fairly close together. The Campus is different from the classic campus design in that it has evolved to consist of a number of large greens surrounded by buildings, with the buildings placed relatively far apart with large amounts of green space between them. This design represents an application of the classic campus design to the Vermont landscape. The buildings

of Middlebury College create a unity which is easily comprehended by the public and which illustrates the history of the the College, the Campus, and U.S. colleges and campuses generally.

3. The first building to function as part of Middlebury College was the Academy Building, constructed in 1798.
4. In 1811, plans were made for the construction of three stone buildings, called "Old Stone Row." This row consists of Painter Hall (constructed in 1814), the Old Chapel Building (built in 1835), and Starr Hall (constructed in 1860). These buildings face east. Their design can be described as symmetrical stone grey boxes with classical Georgian Revival detailing. This Georgian Revival design style has been widely used on U.S. college campuses. In the 1890s, other structures of similar design were built east of Old Stone Row to form the first green. The final building on this green is the Science Center, constructed in 1968. The Science Center is of modern design in a style described as the "brutalist" school of architecture.
5. The formation of a second green was begun in 1912 with the Gymnasium's construction southwest of the Old Chapel Building. The Gymnasium's design and materials are similar to Old Stone Row and is more fully described below. A permit for an addition to the Gymnasium is the subject of this appeal.
6. On the other side of the second green, northwest from the Old Chapel Building, Voter Hall was constructed in 1914. Its design and materials are similar to that of the Gymnasium and Old Stone Row, but with more elaborate detail. Its basic design is a box-like rectangle.
7. On the western side of the second green, Mead Chapel was constructed between 1914 and 1916. It is of classical design but more formal than the buildings previously constructed. It has a full portico, and columns, and a tower. It is on top of a ridge that runs on the western part of the green. It is made primarily of grey stone, although a portion of the facade is constructed of clapboards.
  - a. Also on the western side of the second green, south of Mead Chapel, Hepburn Hall was constructed in 1916 of brick. It is painted grey. It has a four-part structure: a box-like middle structure with one

perpendicular box-like structure at each end of the middle structure, and a fourth box, perpendicular to the middle structure, extending out from the approximate midpoint of that structure toward the west. The building's design is classical but more finely proportioned than the previously constructed buildings around the second green. The style has been described as similar to Harvard University's dormitories built in the 1920s. Hepburn is larger in scale than the previously constructed Georgian Revival buildings such as the Gymnasium.

9. North of Mead Chapel on the western part of the second green, Gifford Hall was built in 1940 by the same architect who designed Hepburn Hall. Gifford was made from grey stone but matches more the design of Hepburn than the Gymnasium.
10. Between Gifford and voter on the northern side of the second green, Munroe Hall was constructed in 1941 and is similar in design and materials to Gifford, except that Munroe is more of a rectangular box than Gifford.
11. The final building in the second green, Stewart Hall, was built in 1956 on the western end of the green south of Hepburn. Its style is described as Prairie and it is more modern than the other buildings around the green. It is made of grey stone and is primarily a box-like rectangle.
12. The Campus's service building is approximately 110 feet behind the Gymnasium. It has a smokestack and was constructed about the same time as the Gymnasium.
13. All of the buildings around the second green have gabled or hipped roofs covered with slate, and all have white wood trim. The buildings were constructed with a variety of materials: limestone, marble, brick, limerock, slate and wood.
14. The use of classical architectural design in most of the buildings on the second green promotes a sense of integrity and unified design. This sense of integrity and unity is generally reflective of the classic college campus design.
15. The two greens described above are the two largest greens on the Campus and are located centrally. The remainder of the Campus is grouped around these two greens.

16. The distances between buildings on the Campus are larger than are normally present on a classically designed campus. For example, the Gymnasium is approximately 250 feet from Starr Hall, the closest building to the east, and 340 feet from Hepburn Hall, the closest building to the west. On other campuses, such as Columbia University, buildings are typically closer together.
  17. Looking at the Campus as a whole, a variety of architectural styles are present, among them Georgian Revival, picturesque, beaux-arts, brutalist, Victorian, and contemporary. Some buildings outside the second green have been constructed with large areas of wooden clapboards.
- B. The Existing Gymnasium
18. The Gymnasium's style is Georgian Revival. The building design and detail seek to imitate classical design.
  19. Like many buildings on the Campus, the Gymnasium is surrounded by large green spaces.
  20. The external walls of the Gymnasium are made of Vermont grey marble. The building has a peaked roof constructed of slate and window sashes made of wood which are painted white. The hipped roof has a pitch of thirty-three degrees. At the peak line of the roof sits a white wooden octagonally-shaped cupola. The windows are round-arched and regularly shaped and placed in orderly fashion.
  21. The entrance to the building is on the northern facade. The entrance includes an entry pavilion with broken pediment.
  22. The Gymnasium's design is almost symmetrical but makes allowances for the topography of the land on which it was built. For example, massing and fenestration are symmetrical. The cupola is also symmetrical. However, because the building stands on a hill that slopes downward from west to east, the base of the building is uneven. Further, the eastern side is not symmetrical to the west because of an entrance placed off-center to allow access to the lower level of a stage inside the building.
  23. The Brown Pool addition was constructed on the southern side of the Gymnasium in 1963. The Brown
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Pool addition is larger in area than the Gymnasium. The addition was constructed of glazed white brick, and originally had a flat roof which the Permittee changed to a peaked metal roof in 1976. The addition covers the southern exterior facade of the Gymnasium. The addition's eastern and southern facades have no windows except for the windows surrounding the eastern facade's entrance near the addition's junction with the Gymnasium. On the addition's western facade, there are windows which are larger than and do not line up horizontally with the Gymnasium's windows. The roof pitch of the addition as modified in 1976 is not the same as the pitch of the Gymnasium roof. The eave lines of the addition and the Gymnasium do not match. The north/south center line of the addition is six feet to the west of the Gymnasium.

24. The Gymnasium is only briefly visible by motorists on any public highway. The Gymnasium is visible from Old Chapel Road, which runs east of the building. At present, the view from this road is of the eastern facade of the Gymnasium and the pool behind it, across a dirt parking lot.
25. Pedestrians coming to the Gymnasium and the Brown Pool addition walk diagonally from the northeast or northwest, or from the east along Old Chapel Road. They typically use side entrances to enter the building. There is no sidewalk or roadway that leads directly up to the northern front facade of the Gymnasium and thus few pedestrians view the building face on. Pedestrians coming to the building from the sides will view the Gymnasium and Brown Pool.
26. For both pedestrians and cars coming down Old Chapel Road or for persons situated at the northern end of the green, the Gymnasium is a centrally visible structure because it is the only structure on the southern side of the green. The smokestack of the service building is visible beyond the Gymnasium.
27. For persons directly in front of the Gymnasium, Brown Pool is not visible. From this vantage point, the strongest visual elements are the entrance, the vertical walls and the pitched roof surmounted by the cupola.

C. The Proposed Additions

28. The College proposes to use the Gymnasium and Brown Pool as a student activities center. The center would

house a large space for social activities, a snack bar, campus **organization** offices, a chaplain's office, and a student lounge.

29. As part of the proposed project, the College will perform some restoration of the exterior of the Gymnasium, including repair of mortar and stone work. Minor modifications made to the Gymnasium over the years to introduce utilities and services will be removed. Windows will be restored and reglazed; the original window sashes will be retained.
30. The College proposes to construct two additions to the Gymnasium and Brown Pool, one each on the western and eastern sides. Together the additions will add approximately 14,500 square feet of space. The additions have in part been designed to screen Brown Pool from sight.
31. The proposed additions to the Gymnasium consist of four octagonal towers and a series of smaller connecting buildings attached to the east and west sides of the Gymnasium and Brown Pool. One major and one smaller tower will be located on each of the Gymnasium's lateral sides, with the smaller towers connecting the major towers to the Gymnasium. The towers will be set back from the northern front facade of the building. The major towers are intended to serve as new entrances to the Gymnasium. South of and behind the proposed towers will be smaller, rectangular structures which will house the service entrance, kitchen facility, and loading dock.
32. The major towers will be constructed primarily of cubic masonry blocks of grey Vermont granite. The color, texture, and scale of the granite blocks will be similar to the marble blocks of the Gymnasium. The windows will have wooden frames. These windows will be shaped differently from the shape of the Gymnasium's existing windows. While the windows are balanced on each side with each other, they are not placed at the same height as the Gymnasium's windows, and are not designed to have a regular and orderly appearance. The major towers will have pitched roofs made of copper shingles of similar size and scale to the slate shingles on the Gymnasium. The copper may turn green. The roofs will be topped with cupolas.
33. The smaller towers will be constructed principally of white clapboards. They will have pitched roofs of standing seam copper.

34. The steepest pitch of any of the roofs on the proposed additions is forty degrees. The roofs of the major towers will begin below the level of the Gymnasium's roof, rise above the peaks of the Gymnasium, and will be eight-sided and conically shaped. None of the peaks or eave lines of the various roofs of the towers will align with the Gymnasium.
35. The proposed additions do not physically affect the Gymnasium's northern facade, which faces the green on which the Gymnasium is located. The additions will, however, hide a significant portion of the eastern and western facades from outside view. The design of the additions is such that large portions of the existing eastern and western walls will be exposed to persons inside the additions.
36. The proposed additions are designed as a series of smaller masses. The volume of space needed for the student activities center has been purposely broken up into small masses to diminish the visual impact of the additions on the Gymnasium. The octagonal design of the towers is also intended to reduce visual impact by decreasing the size of any one wall surface.
37. The additions are designed to be balanced insofar as highly similar additions are proposed for each side. The additions are not completely symmetrical. They are not the same height off the ground and the western addition is located further to the north than the eastern addition.
38. In part because of their asymmetrical nature, the design of the proposed additions cannot be described as classical or Georgian Revival. Instead, the additions introduce medieval elements such as the octagonal structure of the towers and the size and positioning of the windows.
39. As part of the proposed project, the dirt parking area on the eastern side of the Gymnasium will be removed and replaced with grass. Two trees will be removed from the western side of the Gymnasium and no other trees will be disturbed.
40. The Comprehensive Plan, Town of Middlebury, Vermont, states that historic preservation is a goal of the plan. The plan lists a number of historic buildings within the town, none of which is on the Campus. See Comprehensive Plan at 20-24.

IV. CONCLUSIONS OF LAW

Criterion 8 requires that, prior to issuing a land use permit, the Board find that a proposed project will not have an undue adverse effect on a historic site. 10 V.S.A. § 6086(a)(8). The State requests that, in this matter, the Board adopt certain standards to be used here and in the future to evaluate historic sites under Criterion 8. The State also maintains that the College's proposed addition to the Gymnasium has an undue adverse effect on a historic site. The College does not oppose the setting of standards but argues that its proposed addition does not have such an effect.

A. Guidelines for Evaluating the Proposed Project under Criterion 8 (Historic Sites)

The Board declines at this time to attempt to establish standards for evaluating effects on historic sites under Criterion 8. The Board does not believe that this case is appropriate for setting such standards. Instead, the Board will use the standards proposed by the parties, with modifications, as guidelines for analyzing the subject matter before it. The relevance of the guidelines to future proposals will have to be judged on a case-by-case basis.

The Board approaches this case using the following analysis:

1. Whether the proposed project site is historic.

10 V.S.A. § 6001(9) provides:

"Historic site" means any site, structure or district or archaeological landmark which has been officially included in the National Register of Historic Places and/or the state register of historic places or which is established by the testimony of the Vermont Advisory Council on Historic Preservation as being historically significant.

Accordingly, there are three ways in which a site's historic nature may be established under Act 250:

(1) placement on the National Register of Historic Places,  
(2) placement on the Vermont register of historic places,  
and (3) persuasive evidence of historic significance brought before the Board or District Commission by the testimony of the Vermont Advisory Council on Historic Preservation.

2. Whether the proposed project will have an adverse effect on the historic site.

In evaluating adverse effect on a site, it is central to determine whether a proposed project is in harmony or fits with the historic context of the site. Important guidelines in evaluating this "fit" include: (1) whether there will be physical destruction, damage, or alteration of those qualities which make the site historic, such as an existing structure, landscape, or setting; and (2) whether the proposed project will have other effects on the historic structure, landscape, or setting which are incongruous or incompatible with the site's historic qualities, including, but not limited to, such effects as isolation of an historic structure from its historic setting, new property uses, or new visual, audible or atmospheric elements.

3. Whether the proposed project's adverse effect will be undue.

The "undue" quality of an effect on a historic site can be judged in several different ways. A positive conclusion on any one of the following guidelines can lead to a determination that an adverse effect is undue:

- a. The failure of an applicant to take generally available mitigating steps which a reasonable person would take to preserve the character of the historic site.
- b. Interference on the part of the proposed project with the ability of the public to interpret or appreciate the historic qualities of the site.
- c. Cumulative effects on the historic qualities of the site by the various components of a proposed project which, when taken together, are so significant that they create an unacceptable impact.
- d. Violation of a clear, written community standard which is intended to preserve the historic qualities of the site.

B. Historic Site

As earlier stated, there are three ways in which a site can be established as historic under Act 250:

(1) National Register listing, (2) state register listing, and (3) persuasive testimony by the Vermont Advisory Council on Historic Preservation. None of the parties has maintained that Middlebury College generally or the Gymnasium specifically is on the National Register.

The State has argued and presented evidence that all buildings at Middlebury College are on the state register as a group. Questions arose during the hearing concerning whether the Division for Historic Preservation, the entity which places sites on the state register, has properly promulgated standards for placing sites on that register. Subsequent to the hearing, the State submitted a brief challenging the Board's right to determine the validity of the Division's state register standards and arguing that in any case the Division's standards are procedurally proper.

The Board has determined not to address the state register issue because it concludes that the State has, through the testimony of witnesses from the Vermont Advisory Council, established that the Campus is an historic site. There are two reasons for this conclusion. First, Middlebury College has had a significant historic role in the City of Middlebury and in Vermont both as a liberal arts institution and a higher education institution. This significance therefore pervades the Campus as the central locale of the College's history and as evidence of how the College evolved into its contemporary form.

Second, the college campus is a design concept which is a unique U.S. contribution to architectural history. The Campus reflects the architectural history of the U.S. college campus generally and as an application of the classic campus design to the demands of Vermont's topography. The Campus has evolved over the years into a complex of interrelated, monumental buildings placed in a landscaped setting which draws the buildings together as an integrated unit. The buildings of the green on which the Gymnasium is located are designed to promote a sense of integrity and unity which is representative of these Campus features. Further, the Gymnasium and many of the other buildings on the green are representative of Georgian Revival architecture, which has been widely used on U.S. college campuses. Thus, the Campus generally, and the buildings along the Gymnasium green specifically, are historically significant reflections of a unique U.S. contribution to architectural history.

C. Adverse Effect

The Board members are not in agreement concerning whether the proposed additions will have an adverse effect on a historic site.

Members Lloyd, Miller and Wagner believe that the additions to the Gymnasium will not have an adverse effect. They believe that the historic context of the Campus includes the evolution of Middlebury College an institution which must not only respect the past but also move forward into the future. They believe that the existence of buildings on the Campus and on the green with design styles other than Georgian Revival (such as Stewart Hall and the Brown Pool addition) demonstrates that this evolution is part of the College's historic context. They believe that the proposed additions' designs are in harmony with this evolutionary context. They do not believe that the proposed additions introduce any elements which are incongruous or incompatible with the site's historic setting, or that the additions will alter the historic qualities of the Gymnasium, the buildings around the green as a unit, or the Campus as a whole.

Acting Chairman Wilson and Members Courtney, Gibb and **Bongartz** believe **that the** additions to the Gymnasium will have an adverse effect. While they agree with the other members that the College's historic context includes its evolution, they believe that the proposed additions introduce visual elements which are incongruous with the Georgian Revival design of the Gymnasium and the integrity and unity of the buildings surrounding the green on which the Gymnasium is located. Specifically, they believe that the use of medieval design elements is incongruous with the classical styling of the Gymnasium and many of the other buildings around the green. They also believe that the window arrangement proposed for the additions is incompatible with the existing Gymnasium window arrangement. Further, they believe that the proposed additions will increase the visual prominence of the Gymnasium and associated structures, detracting from the unity of the group of buildings surrounding the Gymnasium green.

D. Undue Adverse Effect

The Board concludes that the proposed additions' effect on the historic site, if adverse, is not unduly adverse. The Board does not reach a positive conclusion with regard to any of the four guidelines specified above regarding whether the proposed additions' adverse effect is undue.

To begin with, the Board was not presented with an applicable written community standard which is clear enough to permit a showing that it is violated by the proposed additions. During the hearing, the State introduced the Middlebury Comprehensive Plan, but this plan merely states that historic preservation is a goal and lists a number of historic buildings within the city, none of which is on the Campus.

The proposed additions also do not have cumulative effects on the site's historic qualities which, taken together, are so significant that they create an unacceptable impact. Instead, the adverse effects of the proposed additions, if any, are individual and not cumulative. They result (if at all) from the incongruity of the medieval design elements and the visual prominence of the Gymnasium and associated structures once the proposed additions are built.

Further, the proposed additions do not interfere with the ability of the public to interpret or appreciate the historic qualities of the Gymnasium, the green on which the Gymnasium is located, or the Campus. The use of towers, octagonal shapes and broken-up massing clearly differentiates the proposed additions from the Gymnasium and the other Georgian Revival buildings around the green. In addition, while the visual prominence of the Gymnasium with additions may detract from the unity of the buildings around the green, that unity will not be destroyed and will still be appreciable by the public because the additions are set back from, and do not physically affect, the northern facade of the Gymnasium, which faces the green.

Finally, the Permittee has not failed to take generally available mitigating steps to preserve the historic character of the site. The Permittee has designed the proposed additions as a series of smaller masses which diminishes the visual impacts of the additions on the Gymnasium. The octagonal design of the towers serves to reduce visual impact by decreasing the size of any one wall surface. The proposed additions, while not completely symmetrical, have been balanced on each side of the Gymnasium to pay respect to the rough classical symmetry of the Gymnasium. No physical changes are proposed to the northern facade of the Gymnasium, and the additions are to be set back from this facade. Thus, in the context of this case, the Board cannot say that the College has failed to take mitigating steps.

Findings of Fact, Conclusions of Law and Order  
Middlebury College  
Land Use Permit #9A0177-EB  
Page 14

V" ORDER

Amended Land Use Permit #9A0177-EB is hereby issued.  
Jurisdiction over this matter is returned to the District  
#9 Environmental Commission.

Dated at Montpelier, Vermont this 26th day of January,  
1990.

ENVIRONMENTAL BOARD



Leonard U. Wilson, Acting Chairman  
Ferdinand **Bongartz**  
Elizabeth Courtney  
Arthur Gibb  
Samuel Lloyd  
Roger **N.** Miller  
W. Philip Wagner

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