

**Town of Warren  
Development Review Board  
Minutes of Meeting  
Monday August 18, 2014**

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Members Present: Peter Monte, Don Swain and Virginia Roth.

Others Present: Rick DeWolfe, Henry Erickson, Bill Gallup, Barbara Brady, Brook Weston, Margo Wade, Bill Maclay, Miron Malboeuf and Ruth Robbins.

Agenda: Call meeting to order, 7:00 pm.

1. Application 2014-50-CU/ZP, Determination of suitability to reconstruct a non-conforming structure. William Maclay Architects, representing the Mountainside Condominium Association seeks: 1) a determination or approval under Article 3 § 3.8(2) and/or 2) a determination or approval under Article 5, of the Land Use and Development Regulations. The property is located in the Sugarbush Village Commercial District, at 251 Mountainside Drive and is identified as Warren Parcel Id. # 316000
2. Other Business:

Mr. Monte called the meeting to order at 7:08 pm.

This hearing is about the reconstruction of a 36-unit condominium building that burned down this past winter. The main question is whether, as a pre-existing, nonconforming structure, current standards in the regulations should be applied. Section 3.8 Nonconforming Structures & Uses does state that a nonconforming structure may be restored or reconstructed after damage from any cause provided that the reconstruction does not increase the degree of nonconformance which existed prior to the damage. The question to be answered is if the new design increases any of the non-conforming aspects that existed in the original building.

Mr. Maclay told the Board that there were three areas of non-conformance in the original building: building height, parking space size and setback distance from Rice Brook. He continued to say that the new plans brought two of the items into current compliance and decreased the degree of non-conformity of the third. Both the building height and parking space size have been designed to conform to the current regulations and the new structure is not as close to the stream as the original building and is therefore less non-conforming. When asked if there was any increase in non-conformance with the new building, Mr. Maclay emphatically said 'no'.

Mr. Maclay then went on to describe to the members some of the other changes incorporated into the new structure. The building itself will be wider than the original and though the original had first level below grade units, the new building first level will be at grade and handicap accessible. With the elimination of wood burning fireplaces [gas fireplaces will be used] the wood shed will be removed which in turn helps to increase the parking space. The pitch of the roof has been decreased which was a request of the Fire Dept. but also helps in achieving a conforming building height of 49' 9" calculated on

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the average grade. Mr. Maclay also noted that they looked at several alternatives for access to water for additional fire protection but found that they were cost preventative and time restrictive. With better building materials, proper firewalls and a sprinkler system Mr. Maclay felt the new building was significantly improved over the old one.

Mr. Swain stated that even though Section 3.8 (A) (2) would allow the structure to be rebuilt if it does not increase the degree of non-conformity, the Board also needs to evaluate the means of construction and the non-structural elements of the reconstruction work to determine whether the means of reconstruction and non-structural elements of the work will not violate other standards and requirements of the Regulations. Mr. Monte agreed with his colleague.

The applicant noted that they would be submitting an Act 250 application as well as applying for a General permit 9010 [stormwater treatment is covered under this permit]. The Applicant requested that the DRB add a condition requiring that the Applicant must have these permits before proceeding with construction. [Note: no General Construction permit is required from the state as less than 1 acre is being disturbed]. The Board replied that although having all required State permits would be a condition of any approval they granted, the DRB still had an independent duty to review erosion control and stormwater treatment plans to assure they comply with the Town Land Use and Development Regulations.

Rick DeWolfe of DeWolfe of DeWolfe Engineering walked the DRB members through the plans as illustrated on exhibit C1.03 Erosion Control and Grading Plan. He pointed out that there was no significant change in the amount of impervious surface with there being only .058 acres in increased impervious surface with the new rebuild. The point of discharge for stormwater is the same as before going downhill through an existing swale and beyond the point of ground that will be disturbed during the reconstruction. The applicant also added that the stormwater system was solely for Mountainside and that there was no dovetailing with the Sugarbush Resort system. Mr. DeWolfe then pointed out the silt fencing [SF] and construction fencing [CF] on the erosion control plan [C1.03]. The silt fencing is utilized on the grade that slopes towards Rice Brook where the construction fencing is placed parallel to the bank. Catch basins are indicated by a shaded box and the parking lot will have two check dams on the west end and two on the east end. A culvert will be placed in the location of the old wood shed. The Board then took a look at the Landscaping/ Planting Plan L400. Mr. Maclay told them that they would be enhancing what was there before with state recommended trees, perennials and specific plants for the stream buffer.

**MOTION** by Mr. Monte that the Board finds that the erosion control plan on exhibit C1.03 and the Planting Plan on exhibit L400 are adequate for the purpose of satisfying the requirements for Surface Water Protection under Sec. 3.13. **SECOND** by Mr. Swain. **VOTE:** all in favor, the motion passed.

**MOTION** by Mr. Monte that the only nonconforming aspect of the previous structure were the building height [54 feet vs 50 max], stream setback [required 50 feet min, was 3.8 feet] and parking lot spaces [depth of 22 feet required, 18 feet previously]. **SECOND** by Mr. Swain. **VOTE:** all in favor, the motion passed.

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**MOTION** by Mr. Monte that the Board finds that the proposed rebuild will not increase the degree of nonconformity because two of the items have been cured, and the third has been lessened. [The roof height will be 49.9 on average; the parking lot spaces will all have a depth of 22 feet and the stream setback has gone from 3.8 feet to 4.6 feet]. **SECOND** by Mrs. Roth. **VOTE:** all in favor, the motion passed.

**MOTION** by Mr. Swain that the Board concludes that the standards under Sec. 3.8 (A) (2) have been satisfied because the rebuild structure will not increase the non-conformity of the destroyed building it will replace. **SECOND** by Mr. Monte. **VOTE:** all in favor, the motion passed.

**MOTION** by Mr. Monte that the following condition will be included in any permit: The applicant is required before beginning construction to submit a letter to the Zoning Administrator from the Warren Fire Department that states that the measures proposed by the applicant satisfy the Warren Fire Department's requirements. **SECOND** by Mr. Swain. **VOTE:** all in favor, the motion passed.

**MOTION** by Mr. Monte that the following condition will be included in any permit: Within 6 months after the date when a fire hydrant may be lawfully installed, at the applicant's expense, the applicant will install a new fire hydrant at the western terminus of the new water line to be constructed as a part of this rebuilding. **SECOND** by Mr. Swain. **VOTE:** all in favor, the motion passed.

**MOTION** by Mr. Swain that the Board finds the standards of Sec. 5.3 (A) items (1) through (5) are either satisfied or not applicable. **SECOND** by Mrs. Roth. **VOTE:** all in favor, the motion passed.

**MOTION** by Mr. Swain that Sec. 5.3 (B) Specific Standards items (1) through (7), (10) and (11) will be satisfied upon the receipt of a written submittal by the project engineer; Items (8) and (9) are found to be satisfied by the oral testimony but a written follow-up is also requested by the DRB for the record. **SECOND** by Mr. Monte. **DISCUSSION:** Mrs. Roth wanted to thank the applicants for their ~~through~~ presentation of the project. **VOTE:** all in favor, the motion passed.

**MOTION** by Mr. Monte that the Board issues approval for the rebuilding of Mountainside building #3 as allowed under Sec. 3.8 (A) (2) subject to the plans and specifications submitted, any conditions previously voted on, and all required state permits. **SECOND** by Mrs. Roth. **VOTE:** all in favor, the motion passed.

In other business the members reviewed and signed the minutes of August 4<sup>th</sup> and the conditional Use approval for Garaffo. The meeting was adjourned at 8:35 pm.

Respectfully submitted,

Ruth V. Robbins  
DRB/PC Assistant

TOWN OF WARREN, VT  
Received for Record 9/16 2014  
at 10:45 o'clock A M and Received in  
Ruth Robbins Vol 230 Page 77-80  
TOWN CLERK  
VT Property Transfer Tax Return # \_\_\_\_\_

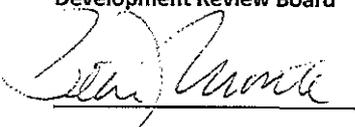
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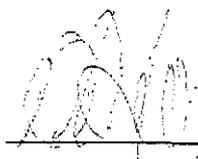
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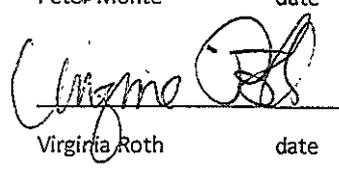
Development Review Board

 9/16/14

Peter Monte                      date

 9/15/14

Don Swain                      date

 9/15/2014

Virginia Roth                      date