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TOWN OF WARREN  
DEVELOPMENT REVIEW BOARD  
FINDINGS OF FACT AND NOTICE OF DECISION  
VARIANCE REVIEW  
#2009-01-VR TIMBERLINE CONDOMINIUM ASSOCIATION

The applicants, the **Timberline Association** and Phelps Engineering, Inc, request a variance for a water utility structure on their property at Timberline Rd off the Sugarbush Access Rd. The applicants were required by the State Water Supply Division to update their water system and construct a 152 square foot water pumping station for an existing public water system serving the Timberline Condominiums. The parcel, #308001, is located in the Rural Residential District.

A duly warned hearing was conducted on Wednesday September 9, 2009 and attended by the following members: Peter Monte, David Markolf, Chris Behn, Virginia Roth and Lenord Robinson. Also in attendance were: Jeremy Rathburn, Bob Messner, Jackie Coates, Henry Erickson, Jon Rubinstein, Gunner McCain, Chris Nordle, Wayne Mackie, Steve Butcher, Miron Malboeuf and Ruth Robbins.

*Phelps Engineering*

**Findings of Fact and Conclusions of Law:**

- 1) The applicant submitted a complete application, site plan by Phelps Engineering, Conditional Use Worksheet, a State of Vermont Public Water System Permit to Construct, notice to abutters and proof of mailing.
- 2) The applicants had neglected to secure a Town permit prior to the construction of the improved water system. Once they were made aware of the oversight, they filed an application immediately.
- 3) The existing water system was underground and had become degraded. The VT Water Supply Division mandated that the deficiencies be corrected.
- 4) One of the challenges of introducing the new system was that the old system had to remain in place until the new was up and running which limited the placement of the new tank and shed that housed the pumping equipment. Because of having to keep the existing system in place, they ended up locating the pumping shed within the setback.
- 5) To help mitigate the situation, the applicant attempted to keep the pumping station shed as close to the general look of the condominiums so as to not stand out anymore than necessary such as using similar cedar siding, roof pitch and exterior color. They tried to disturb as little of the surrounding trees and vegetation as possible. The applicant also submitted a list of plantings to be installed for screening and general appearance.
- 6) The old system consisted of two 1,000 gallon underground tanks approx. 10 feet by 5 feet and an 8 foot by 8 foot cinder block "vault" that was about one foot above ground level that was covered with tar paper.
- 7) The setback distance with the new system is at twenty-five feet, not the required forty feet.
- 8) The applicant admitted they would not have been able to meet the full setback requirement but that they may have been able to qualify for the 30% setback relief allowed under the zoning regulations had they come before the Board before construction. Mr. Rathburn of Phelps Engineering took full responsibility for the error.
- 9) The applicant stated that all options had been considered and that the actual location was proper due to proximity to the existing tie-ins and water source.

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**Notice of Decision:**

With the majority of the Board voting in the affirmative, a variance as allowed under Section 9.6 of the Warren Land Use and Development Regulations is hereby granted to the applicant with the condition that if any of the proposed plantings as submitted by the applicant and prepared by the Mad River Garden Center [dated 9/8/09] die at any time they are to be replaced.

**DEVELOPMENT REVIEW BOARD**

Peter Monte \_\_\_\_\_ date

*Virginia Roth* 10/20/09

Virginia Roth \_\_\_\_\_ date

*David Markolf* 10/15/09

David Markolf \_\_\_\_\_ date

Chris Behn \_\_\_\_\_ date

*Lenord Robinson*

Lenord Robinson \_\_\_\_\_ date