

**Town of Warren**  
**Development Review Board**  
**Findings of Fact and Notice of Decision**  
**Conditional Use Review – Re-Build of Pre-existing/Non-conforming Structure**  
**2014-50-CU/ZP Mountainside Condominium Association**

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The applicant, The Mountainside Condominium Association, represented by architect William [Bill] Maclay, seeks approval for 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. The property is located in the Sugarbush Village Commercial District, at 251 Mountainside Drive and is identified as Warren Parcel Id. # 323000.

A duly warned hearing was held on Monday August 18, 2014. DRB members in attendance were: Peter Monte, Don Swain and Virginia Roth. Others also in attendance were: Rick DeWolfe, Henry Erickson, Bill Gallup, Barbara Brady, Brook Weston, Margo Wade, Bill Maclay, Miron Malboeuf and Ruth Robbins.

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

1. The applicant submitted a complete application, project narrative, summary of fire safety improvements offered for inclusion in the project that have been supported by the town fire department, site plans prepared by DeWolfe Engineering Associates, abutter notification and proof of mailing.
2. In addition, the applicant submitted the following drawings as exhibits to the application:
  - a. Existing Conditions C1.01
  - b. Site and Utility Plan C1.02
  - c. Erosion Control & Grading Plan C1.03
  - d. Overall Property Limits – Site
  - e. Landscape Plan L400
  - f. Overall Parking Plan
  - g. Building Footprint
  - h. Site Lighting – Parking
  - i. Site Lighting – Entries
  - j. Existing Site Photos
  - k. Fire Safety Improvements
  - l. Previous Building Elevations (4)
  - m. Basement/Crawlspace Plan
  - n. First, Second, Third, Loft Floor Plans and Roof Plan
  - o. Sections, Proposed building longitudinal Section
  - p. Wall Sections
3. Based on testimony by the applicant the Board found that the only nonconforming aspects 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].
4. The Board found 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

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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]. Subsequently, the Board concluded that the standards under Sec. 3.8 (A) (2) have been satisfied because the rebuilt structure will not increase the non-conformity of the destroyed building it will replace.

5. Other changes incorporated into the new structure were noted by the applicant: 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 the average grade.
6. The applicant looked at several alternatives for access to water for additional fire protection but found that they were cost preventative and time restrictive.
7. The applicant stated that the use of better building materials, proper firewalls, no wood burning fireplaces and a sprinkler system significantly improves the fire safety of the new building over the former one.
8. The Board found that based on the testimony of Mr. DeWolfe of DeWolfe Engineering 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.
9. The Board found the standards of Sec. 5.3 (A) items (1) through (5) are either satisfied or not applicable.
10. The Board found that Sec. 5.3 (B) Specific Standards items (1) through (7), (10) and (11) will be [thus a condition of approval as reiterated below] 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.

Notice of Approval:

The Board issues approval for the rebuilding of Mountainside building #3 as allowed under Sec. 3.8 (A) (2) subject to:

- 1) The project must be built and completed in accordance with the plans and specifications submitted.
- 2) Before beginning construction the applicant is required 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.

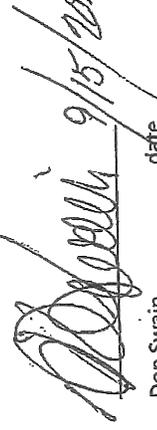
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- 3) Within 6 months after the date when a fire hydrant may be lawfully installed, at the applicant's expense, the applicant will install a new fire hydrant at the western terminus of the new water line to be constructed as a part of this rebuilding.
- 4) That to satisfy Sec. 5.3 (B) Specific Standards items (1) through (7), (10) and (11) the applicant must submit in writing how these standards are being addressed by the project engineer and 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.
- 5) Before any construction is to commence, copies of all required state permits must be on file with the Zoning Administrator for the Town of Warren.
- 6) The project plans and specifications submitted by the applicant and approved by the DRB shall include the specifications included in the "Summary of Fire Safety Improvements Offered for Inclusion in the Project by Mountainside condominium Association that were supported by the Fire Department" dated August 27, 2014.

Development Review Board

  
Peter Monte                      date

9/14/15

  
Don Swain                      date

9/15/2014

  
Virginia Roth                      date

9/15/2014

TOWN OF WARREN, VT  
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