

**TOWN OF HINESBURG
DEVELOPMENT REVIEW BOARD
FINDINGS OF FACT, CONCLUSIONS & ORDER**

**For Hannaford Brothers Company – Applicant
Bernard A. Giroux Trust, June T. Giroux Trust,
Victor J. Giroux Trust and Ramona M. Giroux Trust - Landowner
Subdivision Revision Denial – lot 15
Parcel Number 20-50-02.100 & 20-50-02.200**

This matter came before the Hinesburg Development Review Board (DRB) on the application of Hannaford Brothers Company, hereafter referred to as the Applicant, to revise two previously approved subdivisions, one located on the south side of Commerce Street and the other located on the east side of Route 116. The DRB reviewed the application on January 21, March 4, and April 1, 2014. Tyler Sterling (Hannaford Brothers Co.) and Stephanie Hainley (White & Burke), representing the Applicant, were in attendance at the meetings.

Based on the above-mentioned hearing and the documents contained in the “document” file for this proposal, the DRB enters the following Findings of Fact, Conclusions and Order.

FINDINGS OF FACT

1. The Applicant is requesting approval to revise two previously approved subdivisions – to modify a common boundary line between lot 15 from the 1987 Commerce Park subdivision and lot 1 (“Automotion lot”) from the 1987 Giroux Building Supply subdivision. Specifically the applicant is requesting to transfer 0.32 acres, from the eastern side of the adjoining Automotion lot (Tax Map 20-50-02.200) to lot 15 (Tax Map 20-50-02.100). Both properties are owned by Bernard A. Giroux Trust, June T. Giroux Trust, Victor J. Giroux Trust and Ramona M. Giroux Trust. This will make lot 15 approximately 4.88 acres and reduce the Automotion lot to approximately 1.44 acres. Note that the Automotion lot is proposed to be further reduced to 1.31 acres via a separate but related application for revision to the internal lot line in the Giroux Building Supply subdivision. Lot 15 is located in the Commercial zoning district, and the Automotion lot is located in the Village zoning district. The Commerce Park subdivision approval was granted on December 27, 1987, with an approved subdivision survey plat recorded on slide 106 in the Town land records. The 1987 Giroux Building Supply subdivision approval was granted on July 27, 1987, with an approved subdivision survey plat recorded on slide 103 in the Town land records.
2. This application is one of four Hannaford-related applications, all submitted and reviewed concurrently by the Board. All four applications are related to the proposed Hannaford supermarket on lot 15 of the Commerce Park subdivision, which received site plan approval on November 6, 2012. This 2012 site plan approval included conditions requiring further review of necessary boundary line adjustments (i.e., subdivision revisions) and site plan changes to nearby properties. The four Hannaford-related applications noted above include:
 - a. Hannaford, Giroux Family Trust: Subdivision Revision (boundary line revision, 0.32 acres) to Commerce Park and Giroux Building Supply subdivisions to make lot 15 larger.
 - b. Hannaford, Giroux Family Trust: Subdivision Revision (boundary line revision, 0.13 acres) to Giroux Building Supply subdivision in order to modify an internal lot (between Automotion use and Giroux Body Shop storage yard).
 - c. Hannaford, Aubuchon Realty Company: Site Plan Revision to Firehouse Plaza to relocate the Commerce Street access to the east and make other changes.
 - d. Hannaford, Giroux Family Trust: Site Plan Revision to the Automotion site in order to add and reconfigure parking areas given the related boundary line adjustment proposal.

3. The 0.32 acres is proposed to be transferred to lot 15 to accommodate an elevated earthen platform that will be landscaped and serve as green space for use as a community Farmers Market venue in conjunction with other areas (e.g., parking lot) that are part of the approved Hannaford supermarket site plan. Several feet of fill on the land to be transferred will be necessary to accomplish this.
4. The subdivision revision application was received on October 15, 2013, and deemed complete on November 7, 2013. This application included a variety of survey, engineering, narratives, and related documents. Additional application material was received during the course of the review. All of these submissions are contained in the document file (20-50-02.100 & 20-50-02.200) in the Hinesburg Planning & Zoning office. This file also contains staff reports and correspondence from other parties that were discussed during the review and are part of the record.
5. The following members of the DRB were present for the meeting on January 21, 2014, constituting a quorum: Zoe Wainer, Dennis Place, Kate Myhre, Greg Waples, Dick Jordan, Andrea Bayer. The following members of the DRB were present for the meeting on March 4, 2014, constituting a quorum: Zoe Wainer, Dennis Place, Kate Myhre, Ted Bloomhardt, Greg Waples, Dick Jordan. The following members of the DRB were present for the meeting on April 1, 2014, constituting a quorum: Zoe Wainer, Dennis Place, Kate Myhre, Ted Bloomhardt, Greg Waples, Dick Jordan. See the official meeting minutes for a list of those present at the meeting(s).
6. Sarah Murphy is a member of the DRB, and recused herself from the Board for this review because of her previous comments on the Hannaford site plan review. Bill Moller is an alternate member of the DRB, and recused himself from the Board for this review because of his previous comments on the Hannaford site plan review. Neither Sarah nor Bill were present for any closed deliberations on this application.
7. Two basic legal questions were raised at the March 4 meeting. First, if the land was transferred, would the Hannaford use on a lot split by the Village/Commercial zoning district line be in conflict with the Village district's prohibition on retail stores over 20,000 square feet. Second, does the proposed subdivision revision require a change to the Hinesburg Official Map. The Board requested a legal opinion on these questions, and per the Town Attorney's referral, received one from David Rugh of Stitzel, Page and Fletcher. This opinion indicated there would be no conflict on the first question, and that no change to the Official Map was required on the second question. The Applicant's attorney (R. Prescott Jaunich, Downs Rachlin Martin) provided similar feedback; however, the attorney representing several interested parties (Jim Dumont, Esq.) provided very different feedback regarding compliance issues on both questions.
8. The proposed transfer of land will eliminate approximately twelve parking spaces from the approved Automotion site plan, and will redirect the flow of stormwater runoff on the eastern side of the Automotion lot.
9. The Applicant's related application, to revise the Automotion site plan, proposes additional parking and redirected stormwater runoff to account for the proposed transfer of land and associated fill. However, that site plan revision was denied concurrently with this decision.

CONCLUSIONS

1. The proposed transfer would eliminate parking spaces that the owner of Automotion indicated are needed. In fact, the owner of Automotion testified that more parking spaces are needed than what

is currently approved for the site. Lacking site plan revisions to the Automotion site, the proposed subdivision revisions to transfer land from the Automotion lot to lot 15 cannot be approved.

2. Stormwater control and treatment issues raised during the review appear to have been adequately addressed by the Applicant, especially given the planned improvements to the Commerce Park stormwater conveyance system that will be made as part of the Hannaford supermarket project. Additional stormwater control and treatment measures are possible on the Automotion site; however, the proposed subdivision revisions don't appear to create additional stormwater runoff or negatively impact the existing collection and treatment system.

ORDER

Based on the Findings of Fact and Conclusions set forth above, the Hinesburg DRB denies the proposed subdivision revisions. This application is denied without prejudice. The Applicant is welcome to resubmit the same application for another review, concurrent with another Automotion site plan revision application.

Development Review Board

May 6, 2014
Date

Board Members participating in this decision: Zoe Wainer, Dennis Place, Kate Myhre, Ted Bloomhardt, Greg Waples, Dick Jordan.

Vote to deny: 6-0 (see May 6, 2014 meeting minutes)

30-day Appeal Period:

An "interested person", who has participated in this proceeding, may appeal this decision to the Vermont Environmental Court within 30 days of the date this decision was signed. Participation shall consist of offering, through oral or written testimony, evidence or a statement of concern related to the subject of the proceeding. See V.S.A. Title 24, Chapter 117, Section 4465b for clarification on who qualifies as an "interested person".

Notice of the appeal, along with applicable fees, should be sent by certified mail to the Vermont Superior Court - Environmental Division. A copy of the notice of appeal should also be mailed to the Hinesburg Planning & Zoning Department at 10632 Route 116, Hinesburg, VT 05461. Please contact the Court for more information on filing requirements, fees, and current mailing address.

State Permits: It is the obligation of the Applicant or permittee to identify, apply for, and obtain required state permits for this project prior to any construction. The VT Agency of Natural Resources provides assistance. Please contact the regional Permit Specialist at 878-5676 (111 West St, Essex Jct., VT 05452) for more information.