

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

**For Martin's Foods of South Burlington, Inc. and Victor J. and Ramon A. Giroux Trustees
Conditional Use for Hours of Operation for 36,000 Sq. Ft Retail Use
Parcel Number 20-50-02.100**

This matter came before the Hinesburg Development Review Board (DRB) on the Conditional Use application of Martin's Foods of South Burlington, Inc., for property currently owned by Victor J. and Ramon A. Giroux Trustees hereafter referred to as the Applicant, for a 36,000 square foot Supermarket use on Lot 15 on Commerce Street, located in the Commercial District within Hinesburg's Village Growth Area. The DRB reviewed the application on January 4, 2011, January 18, 2011, February 1, 2011, February 15, 2011, March 15, 2011, September 20, 2011, November 15, 2011, December 6, 2011, December 20, 2011, February 21, 2012, May 15, 2012, June 5, 2012 and July 17, 2012. David White, from White and Burke Real Estate primarily represented the applicant with contributions from representatives of Martin Foods and various engineers, lawyers, etc. on their team.

FINDINGS OF FACT

- 1) The Applicant is requesting conditional use approval to have stocking and cleaning personnel able to conduct operational activities overnight after the store is closed to the public. There will be no deliveries or outdoor maintenance after hours except for normal snow removal operations. Overnight lighting levels inside the store are cut to only 25% of the illumination used when the store is open for business to customers.
- 2) After closing to the public a regular eight-hour shift, consisting of a floor Maintenance crew and a stocking crew will arrive at 10 PM and depart at 6 AM (except for unusual circumstances). There may be up to 10 customer service employees who will depart shortly after 10 PM and arrive shortly before 6 AM.
- 3) The Hannaford supermarket is in the Commercial Zoning District on lot # 15, parcel number 20-50-02.100 of the Commerce Park subdivision.
- 4) Per section 4.3 site plan approval "no commercial or industrial use shall operate outside the hours of 6:00 a.m. To 10:00 p.m. Without the conditional use approval of the development review board...."
- 5) The Conditional Use Application was initially received on November 11, 2010, submitted as a part of the combined application which included Site Plan and an application for signs. It was deemed complete on November 18, 2010 and amended during the course of the hearings. All were reviewed in the same hearing process but are addressed in separate decisions
- 6) All of these submissions are contained in the document file (20-50-02.100) 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.
- 7) The following members of the DRB participated in the complete review process, Tom McGlenn, Ted Bloomhardt, Richard Jordan, Dennis Place, Greg Waples, Kate Myhre and Zoë Wainer. George Munson served on the Board until March 2011, when he resigned, replaced by Kate Myhre who began participation at the September 20, 2011 meeting when a revised proposal was presented for the first time. See the official meeting minutes for a list of others present at the meeting(s).

- 8) The January 4, 2011 public hearing was warned in the Burlington Free Press on December 19, 2010.

CONCLUSIONS

- 1) There will be no adverse affect on any conditional use criteria (section 4.2.2, Zoning Regulations).

ORDER

Based on the Findings of Fact and Conclusions set forth above, the Hinesburg DRB gives conditional use approval to Martin’s Foods of South Burlington, Inc. and Victor J. and Ramon A. Giroux Trustees project described above, subject to the conditions listed below.

- 1) This approval is contingent on the overall application for the Hannaford supermarket obtaining site plan approval.
- 2) After hours parking lot lighting shall be per the submitted plan L2, revised date 4/26/12, which indicates with blue highlighted circles those lights permitted to remain on.
- 3) This project shall be completed, operated, and maintained as set forth in the plans and exhibits as approved by the DRB and on file in the Town Office, and in accordance with the conditions of this approval. Deviations may be made from these plans if they are:
 - a. Approved by the designer, or equivalent
 - b. In conformance with the intent of this decision,
 - c. Determined by the Zoning Administrator that they are not significant enough to require a formal revision to the DRB decision.
- 4) Per 4.2.7 of the Zoning this conditional use approval shall expire after the period of time set forth in Section 7.5.

Dennis Place
 For the Development Review Board

August 30, 2011
 Date

Board Members participating in this decision: Tom McGlenn, Ted Bloomhardt, Richard Jordan, Dennis Place, Greg Waples, Kate Myhre and Zoë Wainer.

Vote to approve: 6 – 1 with Zoë Weiner voting against

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.