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 Sign Application 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 sign 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 wall mounted and free standing sign on Lot 15 on Commerce Street, located in the Commercial District within Hinesburg's Village Growth Area. The DRB reviewed the various aspects of 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 and the sign application were discussed intermittently as well. 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.

Based on the above-mentioned public 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 for two signs for a proposed Hannaford supermarket in the Commercial Zoning District on lot # 15, parcel number 20-50-02.100 of the Commerce Park subdivision. One is a wall mounted sign located above the entrance of the proposed store and the other a free standing sign near Commerce Street.

2) The original subdivision contained the original lot # 15 and a separate lot, named "Commerce Street Extension". They were subsequently deemed conjoined by the Zoning Administrator, and accepted by the DRB, as one lot because both lots were undeveloped and the "Extension" lot was too small to remain a separate lot. This portion of lot # 15 is both an Access Strip, per the regulation definitions and a street (*Public or private road or right-of-way for vehicular traffic which affords the principal means of access to abutting properties*).

3) 5.4.5(11) of the Zoning Regulations, Setbacks from streets. *No sign, other than a sandwich board or portable sign may be closer than 15 feet to the traveled portion of a street. Under extraordinary circumstances, the Development Review Board may permit a sign to be closer than 15 feet.*

4) The size of the store will make it readily visible from Commerce Street and there is extensive frontage on Mechanicsville Road.

5) Per section 5.4.5(9) of the Zoning Regulations, Setbacks. *No sign may be closer to a side or rear lot line than the minimum building side-yard (ten feet in this case) or rear-yard setbacks for accessory structures set forth in Section 2.5 of this Regulation, unless specifically authorized by the Development Review Board.*

6) The proposed location of the freestanding sign on "Overall Plan, 4/26/12" is within four feet of the Darkstar property line, and 12 feet from the traveled portion of "Commerce Street Extension".

7) The regulations require per section 5.4.5(10) that the DRB to specifically approve or disapprove any sign that is to be within a ROW. The National Bank of Middlebury submitted a letter June 12, 2012, recognizing that the sign is within their ROW and states that they have no objection to it being there.

8) The Sign Application was initially received on November 11, 2010, submitted as a part of the combined application which included Site Plan and an application for Conditional Use. All were reviewed in the same hearing process but are addressed in separate decisions. It was deemed complete on November 18, 2010 and amended as the building site plan designs changed. The final wall-mounted sign is shown and described on a sheet titled, Client "Hannaford" dated 5/24/12. The final free standing sign is shown and described on a sheet titled Client "Hannaford" dated 1/14/2011 last revised 5/24/12. A narrative was also submitted on July 2, 2012 and the signs were further described by the Applicant at the meetings. 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.

9) 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).

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

11) The wall mounted sign consists of two separate components. The Logo is constructed as a single unit with an array of white LEDs evenly spaced behind a white flexible face material using a total of approximately 70 watts to give a moderate even light over its surface. The dominance of darker color vinyl overlays on the white face will further

reduce effective light transmission. The sub copy lettering will be individual cut-out channel letters, each of which will be illuminated by three to six LED's which will be red and shine through the rust brown colored vinyl overlay to produce a subtle reddish brown color.

12) The freestanding sign background, a "mountain green" color to match the building, is opaque leaving only the graphics illuminated. The letters and logo are a "push thru" style fabrication process with a 3/4" thick Plexiglas material with a white light diffuser applied internally, which allows for a soft, even distribution of light through the logo and character faces. The logo and letter faces use a pigmented translucent vinyl application which also reduces the light. The "push thru" graphics allow for a soft edge glow that acts in the same fashion as a reverse channel letter does. The interior of the display is illuminated with fluorescent lighting spaced deep within the display and is manufactured in a single lamp bank.

13) Section 5.4.5 #1 of the Zoning Regulations requires that internally illuminated signs not be lit when the premise is not open for business.

CONCLUSIONS

1) The proposed signs comply with the size requirements of section 5.4 (Zoning).

2) There are no issues with the proposed wall sign. The free standing sign has issues with its location only.

3) The location of the free standing sign has the following issues.

   a) The proposed sign location is closer to fifteen feet to the traveled portion of a street and there are no extraordinary circumstances to warrant this.

   b) The sign doesn't meet the setback requirements (10 feet) from the Darkstar property boundary.

ORDER

Based on the Findings of Fact and Conclusions set forth above the Hinesburg DRB <u>denies</u> the proposed free standing sign. However, the Hinesburg DRB approves the wall mounted sign subject to conditions listed below.

1. This approval is contingent on the overall application for the Hannaford supermarket obtaining site plan approval.

2. All sign illumination shall be turned off when the Hannaford store is not open for business.

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. This sign approval shall expire if the sign in question is not installed within 1 year, or as otherwise indicated in section 8.5 (Zoning).

Dennis Place — August 30, 2011
For the Development Review Board — 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.