

Town of Hinesburg
Development Review Board

July 17th, 2012

Approved 08/07/2012

Members Present: Zoë Wainer, Tom McGlenn, Dennis Place, Greg Waples, Dick Jordan, Kate Myhre, Ted Bloomhardt .

Also Present: Peter Erb (Zoning Administrator), Alex Weinhagen (Director of Planning & Zoning), Renae Marshall (Recording Secretary) .

Representing Applications: David White, Tyler Sterling, Doug Boyce, Roger Dickinson, Scott Jaunich

Public present included: Frank Koss, John Lyman, Barbara Lyman, Sally Reiss, David Lyman, Karl & Patricia Novak, Dorothy Pellett, Elly Coates, Rob Farley, Gill Coates, Jean Kiedaisch, Bob Linck, Wendy Patterson, Dean Grover, Rachel Kring, Bill Marks, Dona Walker, Jane Starkweather, Chris Morrell, Steve Giroux, Rolf Kielman, Veronica Estey, Jeff French, John Roos, Mary Beth Bowman, Paul Wieczoreck, Mary Crane, Greg LeRoy, George Dameron, Jim Dumont, Barry Russell, Bryce Busier, Carrie Fenn, Johanna White, David Fenn, Jim & Sam Collins, Vince & Jean Masseur, Michael Sorce, Joseph Tomko, Dennis Willmott, George Holoch, Marianna Holzer, Rik Palieri, Vicki Matthews, Natacha Liuzzi, Bob Merrill, Soloman Bayer-Pacht, Nancy Norris, Laura Wisniewski, Bill Moller, Sarah Murphy

Tom McGlenn chaired the meeting, which started at 7:30pm.

Minutes from July 5th, 2012 Meeting:

Zoe W **MOVED to approve as amended**. Tom M **seconded** the motion. The motion **PASSED 5-0**. Both Ted B. and Kate M. abstained from the vote as they were not at the July 5th meeting.

Hannaford 20-50-02.100--Cont'd from May 15th mtg (Site Plan, Conditional Use, Sign Review for a 36,000 sq. ft. supermarket on Lot 15 of the Commerce Park subdivision on Commerce St.) Tom M. began the meeting with a reminder that this was intended to be the final public hearing for the Hannaford application. He encouraged those who spoke to keep their information brief and to focus on what applies to the zoning regulations and to the Official Map. He cautioned people to only address comments to the Board.

David White stated that all of the presented materials speak for themselves. He began by addressing a couple of questions. A question had come up regarding the overflow of Hannaford stormwater to the swale, and concern was noted if that might increase flow of water to Dark Star. David assured the Board that with the 18 inch pipe that is proposed; the majority of the runoff would bypass Dark Star entirely. In all storm events (e.g. 2yr, 10 yr., 25 yr., 50 yr., 100 yr.), there would be less storm water in the swale next to Dark Star than today.

David W. also addressed a question regarding a proposed traffic signal at the Mechanicsville Rd. intersection. He stated that this signal would be coordinated with the Commerce St. and Charlotte Rd. signals and should diminish the back-up of traffic. He said that if such a light was

installed, the overall level of service for the intersection would be level B, and there would be a level of service C for the Mechanicsville Rd. approach.

David W. also responded to James Dumont's (attorney for Responsible Growth Hinesburg) claims regarding the Official Map. Hannaford has made a decision to comply with the Official Map. Hannaford has not asked the Board to disregard the Official Map. Also, when using the term "area", the zoning regulations are referring to the entire Village growth area. Village growth areas are designed with public spaces. Regarding the Giroux parcel, Hannaford does have site control over that property and has had it for several years. Regarding question of retaining wall—Supreme Court has not deemed them as structures. In reference to Mr. Dumont's claims regarding traffic, Hannaford believes that queues weren't included in the model. Traffic queues are included in Roger Dickinson's model that was provided. Hannaford feels they have met and in many cases exceeded the zoning criteria, and that the project clearly complies with the zoning ordinances.

Ted Bloomhardt noted that he had raised the two issues of runoff to the Dark Star swale and traffic with a Mechanicsville Rd. light. He said Hannaford had responded to these issues.

Dick Jordan has a number of issues regarding the language in regard to the easement for the Farmer's Market area—i.e. Hannaford's *unilateral control over termination of easements*—He said the items on the Official Map are not temporary community facilities. There appear to be a number of ways that this easement could potentially go away if there are problems that occur between the two parties. Dick questioned if Hannaford would be willing to have an independent arbitrator come in before an easement is withdrawn.

Tyler Sterling (representing Hannaford) responded that the intent was that Hannaford would finalize the details with the Selectboard if the agreement goes through. It is only a protection measure for Hannaford but they are willing to have a condition put in that any final easement language is mutually agreed upon by both parties. As the language becomes more finalized, the Town attorney as well as Hannaford's attorney will provide guidance to the Selectboard regarding the language dealing with the easement.

Dick J. commented about the limited use that the hours/days of the Farmer's Market would allow. Could this have multiple uses in addition to the Farmer's Market such as having picnic tables, etc. so that people could utilize that space during other times?

Tyler S. responded that one of the renderings provided did show picnic tables, etc. This is why they added more green space; to make it more utilized. Public use of the green space beyond the Farmer's Market day/time would be expected.

Dick J. replied that the language didn't imply that other uses would be allowed so he wanted to clarify if this was intended. He was also concerned with the specific info regarding dates/hours—seems like this is the wrong document (Easement) to include these details. A Conditional Use might be more appropriate so it could come back before the DRB if changes were needed based on use.

Greg Waples stated that he was under the impression that this was the final public meeting; yet, he feels questions of prior meetings regarding the easement language have not been answered. He interprets this silence from Hannaford as being unresponsive to the concerns raised.

David W. replied that he feels they have provided revisions as issues came up; and have provided original as well as revised versions. In response to the concern regarding easement language, there is flexibility in language and can be adjusted on an annual basis to fit current needs at that time.

Tom M. opened the discussion up to the public, beginning with a representative from Responsible Growth Hinesburg(RGH).

James Dumont (attorney representing RGH) began by thanking the DRB on behalf of RGH for the work and time that they had invested. He said it was clear that the DRB has the future of Hinesburg at its heart. The Official Map identifies all of Lot 15 as the site of a public facility. A lot of time was spent on getting the Official Map adopted. He referred to Sect. 4421 of Title 24, Chapter 117 of State statute. He asked the Board to consider if Hannaford has demonstrated that they have provided six uses. Leaving twenty percent of the overall lot available for a few of the six uses is not suitable. He also stated that Hannaford has not demonstrated they have used the concept of maximum compatibility with adjacent landowners and character of the neighborhood. He said there are many other alternative uses that would be more compatible. There is no right, protected by statute, for Hannaford to build a big box store. Also he pointed out that it is false to claim that the Official Map has nothing to do with zoning (refer to bylaws). He said Hinesburg needs a place that is a focus for a public gathering space.

Greg W. questioned Mr. Dumont's reference on pg. 9 to 5.2.3. James D. replied that it was simply a typo and should read 5.23.

Greg W. was interested in Mr. Dumont's written testimony regarding a stone wall in relation to definition of structure. Mr. Dumont said that per the Supreme Court, a retaining wall of the size proposed by Hannaford should be considered a structure with regard to setbacks and lot coverage. He said this would not apply to patios or terraces, but should apply to Hannaford's proposal for a 6' high stone wall.

George Dameron (Village Steering Committee) The VSC has been charged by the Selectboard to advise the various Boards and Commissions. In November, they spoke briefly about how traffic would seem incompatible with the proposed structure. After reviewing all of the evidence, they reaffirm that the road infrastructure seems inadequate to accommodate a 36,000 sq. ft. structure. Hinesburg is served by only one north/south artery (Rt. 116). Hannaford envisions one two-lane access road to the store. The VSC believes this project is incompatible with the traffic infrastructure we have today. If passed, the VSC suggests the Board put in a condition that states Hannaford would bear all financial responsibility for all traffic mitigation necessary. The VSC has concerns in regard to safety regulations section 4.3.2—Pedestrian Safety. Increased pedestrian/traffic will pose safety concerns. You will need to ensure appropriate measures for pedestrians and cyclists. The VSC is also concerned that currently there is no

independent entity or mechanism to monitor safety measures/traffic mitigation. The VSC realizes any decision you make will have a significant impact on the town. The VSC prefers the application be rejected.

Chuck Reiss (Responsible Growth Hinesburg) introduced their consulting engineer (Dean Grover). Dean Grover (Grover Engineering) stated that the grass channels downstream from the site (Lot 15) don't meet state requirements for water quality treatment devices. He noted the ponded water near Dark Star. He referenced a summary table that demonstrates changes in water flow. While the flows in the grass channel next to Dark Star are not increased, further downstream flow will be twice as high in heavy storm situations. (See *Summary of Stormwater Concerns, Deficiencies, and Recommendations*) Mr. Grover showed examples of how storm swales are not operating appropriately. If this site were to be used as a town green or park and a modestly sized pond was included in the park, sufficient stormwater would be stored during 50-year and higher intensity storms to prevent flooding of the Dark Star building and the shopping center.

Peter Erb clarified that these submissions from Grover Engineering would need to be placed on the official record for it to be included with the DRB's information and copies made available to the public.

Dean Grover assured Peter that that was indeed their intention.

Tom M. opened the floor to the public for questions/comments.

Veronica Estey expressed disapproval in regard to her opinion of how decisions are made within the Town Boards. She stated that the Dark Star building never met height of building (i.e., first floor elevation) requirements for Act 250 and was never built to the standards of Act 250. NRG was previously approved to build on this lot (Lot 15). However, the large costs associated with bringing the lot (Lot 15) up to grade required by Act 250 led them to move the site to the Riggs property. In regard to the comments about traffic, traffic that comes through this town is what makes our town survive. In reference to "maximum compatibility and character"—it has been a commercial park for 25 years. Veronica urged the Board to make a decision that reflects the rules and regulations and not on personal and or special interest group's opinions/feelings.

Barbara Lyman read a statement (*see Statement of Hinesburg Village Vision July 17, 2012*) from the Hinesburg Village Vision encouraging the Board to be respectful of the applicant and make a decision based on the zoning regulations in regard to the application in front of them and the information submitted that deals with zoning regulations.

Rob Farley said that only a small percentage of people of Hinesburg are providing input. He asked the Board to please consider the people that struggle to put gas in car and food on table. A local store would meet the needs of the community as a whole. Rob states that he sees/hears lots of angry testimony on both sides. This can lead to people being more subjective rather than objective. Please look at all information submitted and deal with it fairly. It should not be about the applicant; it's about the project. Take into account 20, 30, 50 year growth; DRB is here to plan for our future. Lot 15 is biggest lot in Commerce Park which is why you get

biggest building proposed there. Rob feels Hannaford is fitting well with the lot size and community. He feels Hannaford will be a valuable asset to our community. Regarding stormwater, all issues will be addressed by state stormwater permitting.

Mary Crane referenced the balloons and pointed out how close the Hannaford building is to the canal path. If you look at the balloons location in relation to the public space; the public space is a very small portion of a 4.3 acre lot.

David Lyman commented on the discussion in regard to traffic coming to Hannaford. He stated that the traffic is already here. He finds it interesting that no concern with regard to the new restaurant Hinesburg Public House has been mentioned.

Sarah Murphy stated that our responsibility to stormwater is even more important given lack of compliance with Act 250 and the fact that the current system doesn't work well and causes flooding near Dark Star. Perhaps there has been a lack of follow through in the past in ensuring the Act 250 regulations are met.

Michael Sorce (Dark Star) commented that he felt compelled to speak as there has been so much mention of Dark Star. He clarified that he has always stated that Lot 15 would be developed. He is not against development but he has concerns about the proposed building. He said that Ron French did the site work for our lot as well as Firehouse Plaza. This building will create considerable more traffic than NRG would have at the same location. Hannaford wanted to originally purchase Lot 12, owned by Dark Star, but he said no at the time.

Dean G. stated that Dark Star and Firehouse Plaza are at the same first floor elevation-(i.e., Firehouse Plaza was not built on higher ground than Dark Star).

Veronica Estey responded to a previous statement and clarified that Vermont Structural Steel was the Firehouse Plaza engineer not Ron French.

Marion Willmott stated that she has lived in Hinesburg for over 40 years. She asked the Board to consider if we want Hinesburg to resemble a traditional New England town or do we want strip malls and big box stores? The traditional model does not include big box stores and strip malls within the town; they are located outside of the town. She encouraged the Board to preserve a sense of a rural town community.

Rachel Kring spoke in reference to the statute of maximum compatibility. Life slows down on weekends in Hinesburg. That area (Commerce St.) is quiet on weekends. She expressed that is what drew her to this town. Having a Hannaford there would change that.

Sally Reiss reminded the Board of a courageous individual named Ted Riehl, who in 1968, helped pass legislation that outlawed billboards in Vermont. Some people were outraged at the time but, as a result, we look upon a landscape that is truly unique. Vermont is something special. This (Hinesburg's rural character) too is worth preserving.

Rik Paleri shared a bee analogy with the Board. We are not against new development but we want something that feels right for Hinesburg. He encouraged the DRB to consider what is *right* for Hinesburg. He thanked all parties for the work that has been done.

John Lyman expressed to the Board that they should be looking at facts in regard to rules/regulations; not emotions and feelings.

Tom M. assured the audience that this Board would indeed focus on the facts in relation to the zoning rules and regulations.

Jeff French spoke as a neighbor of Lot 15; he lives in Thistle Hill. He stated that his issues are the size of the store and the amount of traffic on Rt. 116 and more importantly, Commerce St. and Mechanicsville Rd. He is concerned with it fitting in to the neighborhood and pedestrian safety & traffic.

Dennis Willmott stated that the proposed Hannaford building is a big footprint. If the town needs this for economic vitality then why did they pick this lot? The northwest side of 116 would have been a better location. A more responsible location would have been more easily engineered.

Laura Wisniewski supported Rob Farley's comments regarding taking into account 20, 30, 50-year growth. We do need to consider further down the road when we look at an application such as this. What happens 30 years from now if Hannaford leaves a proposed building of this size?

John Roos shared visual images on the projector of traffic back-up on Rt. 116. He referenced the applicants traffic study and stated that the study has inaccurate #'s, incorrect assumptions, and faulty modeling. (see *Traffic Analysis*)

Vicki Matthews stated that she has lived in Hinesburg since 1973. She used to be able to back out of her driveway onto Rt. 116; something that couldn't be considered today. In 1973, there were 2300 registered voters in Hinesburg; there is considerably more than that today. She expressed that back-ups were created when the traffic lights came in to town.

Bill Moller encouraged the audience to have faith in the Town of Hinesburg.

Jim Collins spoke in reference to the traffic issues. The reason traffic has built up is because of traffic turning in and out of Lantman's. If this is moved off of Rt. 116; it will alleviate this issue. Jim thanked the Board for all of their work.

Greg Munsell expressed that he doesn't trust the use of models; look at Hurricane Irene. Sidewalks that we currently have and those that are being built will keep pedestrians safe. Greg feels that Hinesburg is not a business friendly community and feels this negatively impacts current and future businesses in Hinesburg.

Chuck Reiss spoke (on behalf of himself) to thank the DRB for their work. He feels it has been a very worthwhile process. He noted that Hannaford is defining parameters. The zoning regs came about through mud season forums. When considering the intent of the zoning regulations, he feels Hannaford doesn't meet these regs.

Bob Thiefels stated that he doesn't feel Hinesburg would ever be a ghost town. We (Hinesburg) may attract different businesses than we would if we had a Hannaford. Hinesburg is a beautiful town to live in and to walk in. Bob feels other businesses would be better neighbors than Hannaford.

Tom M. opened the discussion to the Board.

Greg W. questioned where we stand with the sign issue.

David W. first stated that Hannaford has tried very hard to be responsive for the last 20 months. He also wanted to respond to two points prior to addressing the sign issue. The first point he wanted to reiterate was that retaining walls are not structures and he referenced Hannaford's Attorney, Scott Jaunich's memo in response to the Post-Hearing Memo by RGH. Secondly, the amount of stormwater is not increasing on the Dark Star property. It is expected to be improved from what it is today. The proposed project will increase run-off during very large storm events. However the impact would be miniscule on the overall watershed due to the limited flow capacity of the culvert under Rt. 116 to Patrick Brook. As far as the sign issue, The Lot 15 property would be accessed via a shared driveway with the Nat'l Bank of Middlebury. The driveway is part of Lot 15 but the bank has a right of way giving them access to their lot. The right of way is street frontage and we only have 50 feet of street frontage. The sign doesn't face Commerce St. and it is small and well within regulations. Only property affected by the sign is Nat'l Bank of Middlebury and Hannaford submitted a letter from them okaying it.

Dick J. voiced concern that the proposed sign would be too close to the road impacting snowplowing. Dick questioned the need to have the sign in that location.

David W. replied that the sign would be well constructed with plenty of room around it for snow removal. The store is actually far enough off of Commerce St. that people could potentially miss it.

Ted Bloomhardt requested clarification in regard to the lighting of each sign.

David W. responded that the freestanding sign would be illuminated with energy efficient fluorescent lighting. The building sign would contain LED lighting shining through the color of the lettering on the building. This reduces the intensity of the lighting.

Tom McGlenn thanked Hannaford for bringing a good application to the DRB. He thanked Responsible Growth Hinesburg, Hinesburg Village Vision, VCAM, Dorothy Pellet, and Marge Sharpe for the work they have done getting information out to the public regarding this application.

Ted Bloomhardt wanted to address the perception that the Board votes on emotion or social engineering. Ted assured the audience that this Board makes decisions solely on regulations.

Tom M. made a **Motion to Close the Public Hearing** on the Hannaford applications (site plan, conditional use, sign) and take up the review in deliberative session. Ted B. **Seconded** the motion. The motion **PASSED 7-0**.

The Board reviewed possible dates to begin closed deliberations on the Hannaford application. The Board decided to hold the first deliberations on July 24th at 7:30 p.m. No other business will be taken up at that time. After that future deliberations will be scheduled for the end of the regular August meetings. Greg Waples said he could not attend on July 24th and that he would correspond with staff regarding his thoughts on the application, to be shared at the 7/24 deliberations.

Other Business: Peter explained changes that have been made to the Hinesburg Village Center Plaza (on Mechanicsville Rd) in the last year by the new owners. He said that significant changes were made to the landscaping, resulting in the need to revise the approved site plan. Peter asked the Board for feedback as to whether the site plan revisions should be reviewed by the Board or simply by him (Zoning Administrator) as a minor site plan revision. Ted B. felt the changes were significant enough to warrant Board-level review. Peter said he would work with the landowner to make that happen.

Tom M made a **Motion to adjourn**. Ted B. **seconded** the motion. The meeting **adjourned at 9:45 pm**.

Respectfully Submitted,
Renaë Marshall--Recording Secretary