Town of Hinesburg
Development Review Board
March 4th, 2014
Approved 3-18-14

Members Present: Zoe Wainer, Dennis Place , Greg Waples, Dick Jordan, Sarah Murphy, Kate Myhre, Ted Bloomhardt.

Members Absent: Andrea Bayer.

Also present: Peter Erb (Zoning Administrator), Alex Weinhagen (Director of Planning & Zoning) and Freeda Powers (Recording Secretary). Representing Applications: Scott Jaunich, Tyler Sterling, Stephanie Hainley, Brian Bertsch, Akiko Balchiunas.

Public Present: Jim Dumont, Mary Beth Bowman, Larry Telfund, Steve Giroux, Jean & John Kiedaisch, Zach Morton, Renate Parke, Wayne Schwab, Nancy Baker, Catherine Goldsmith, Darrin Heath, Bill Moller, Bob Thiefals, Bethany Ladimer, Johanna White, Maggie Gordon, Anne Donegan, Natacha Liuzzi, Sally M Reiss, Sarah Murphy, Ken Brown, Chuck Reiss.

Zoe W. chaired the meeting, which was called to order at 7:31pm.

Minutes from 2/18/14:

Zoe W. **made a motion to approve as amended** the minutes from 2/18/14. Dick J. **seconded the motion.** The motion was approved **7-0.** John Kiedaisch spoke from the audience asking if he could submit revisions or additions to minutes from the January 21st meeting. He was instructed that for future minutes, he may submit revisions to town hall staff (preferably in writing) within two weeks from the original meeting; after the two week period, the minutes are voted on by the Board and are then closed for editing.

Hannaford:

1.) Hannaford, Giroux Family Trust: Subdivision Revision (boundary line revision, 0.32 acres) to Commerce Park and Giroux Subdivisions to make proposed Hannaford lot larger pursuant to 2012 Hannaford site plan approval. This property is located along Commerce Street & VT Route 116 in the Commercial & Village Zoning Districts.

2.) Hannaford, Giroux Family Trust: Subdivision Revision (boundary line revision, 0.13 acres) to Giroux subdivision in order to modify an internal lot (between Automotion and Giroux Body Shop storage yard). This property is located on the east side of VT Route 116 in the Village Zoning District.

3.) Hannaford, Aubuchon Realty Company: Site Plan Revision to Firehouse Plaza to relocate the Commerce Street access to the east, pursuant to 2012 Hannaford site plan approval. This property is located at 20 Commerce Street in the Commercial Zoning District. **The applicants have requested this application be continued to the April 1st meeting.**

4.) Hannaford, Giroux Family Trust: Site Plan Revision to the Automotion site in order to reconfigure parking areas given the related boundary line adjustment proposal. This property is located at 10390 VT Route 116 in the Village Zoning District.

Zoe W. noted that this is a continued hearing from 1/21/14. Sarah M. recused herself from this application. Stephanie Hainley (representing applicant) presented the Board with responses from the 1/21 feedback they received from staff, the Board and the public. Issues of concern raised at that meeting included; Lot coverage calculations for Lot 15 both with and without the proposed 0.32A transfer, Legal response to the question of split-zoning or extending the Village District's use restrictions regarding maximum retail space to the Hannaford use on Lot 15, Revisions to the Automotion site plan to better comply with regulations regarding design standards and Revisions to the Aubuchon site plan to include a culvert under the proposed driveway. The applicant has requested to have the Firehouse Plaza (Aubuchon) portion of the application continued to 4/1 to better address previous feedback of that site.

Stephanie said that with regard to the question of lot coverage, Lot 15 complies with the lot coverage max with or without the 0.32A parcel transfer. Responding to a staff memo from Zoning Administrator Peter Erb. regarding the application of the Official Map as it relates to the split zoning use, the applicants say they respectfully disagree that there is an issue here and reminded the Board that the Hannaford Lot 15 application is currently pending in appeal with the state. Greg W. said the Official Map locates a Public Facility on Lot 15; if extended in part into another area, another district even, that Public Facility (in this case the Farmers Market) is no longer being accommodated on Lot 15. The applicant said they do not feel this is contrary to the Official Map. Greg W. said in his view, it amends the Official Map and went on to suggest the Town may want to seek further legal opinion on this issue.

Zoe W. asked if there were any questions or comments from the public.

Nancy Baker spoke from the audience, voicing her concerns with parsing out this application into separate portions. She said the Automotion site review loses sight of the bigger picture. She strongly agrees with the Zoning Administrator's remarks in his memo about learning from our mistakes and encouraged the Board to go slow and be deliberate, allowing the regulations to guide their discussion and decision.

Chuck Reiss spoke from the audience asking for clarification around the potential legal issues surrounding the split-zoning that occurs with the transfer of land from one district to another. He asked about the process to change how the zoning is applied—is this done through appeal? Greg W. said the Board is trying to understand those same issues; here the applicant's memo addresses some questions but leaves others unanswered. There has been a new memo submitted tonight, but, he said, he as one Board member is not in a position to comment on it further at this time. Personally, Greg W. went on, he is in favor of speaking with a referral from the town attorney, Bud Allen, regarding guidance for when a project is divided by a district boundary.

Mary Beth Bowman spoke from the audience, asking if the funds for that legal advice come from a vote of the Selectboard. Greg W. said no, this board can do that.

John K. spoke from the audience, saying he seconds the concerns brought up by Greg W. and Chuck Reiss. He agrees, we should get some legal advice on this issue. The land in question for transfer is

where the Farmers' Market would be located, making it relevant to the question of whether or not that still qualifies as part of Lot 15 (and therefore complies with the Official Map).

Lane S. spoke from the audience, saying he also encourages the Board to be guided by the zoning principles.

The applicant voiced their frustrations at being asked to supply a legal response while just now hearing indications from the board that they too will be seeking further legal advice. Greg W. replied that it is the Boards' preference to avoid spending money but that the case citation offered by the applicant does not persuade him. The applicant said they are not disputing that the Official Map may or may not apply; they do not think that the Official Map or Zoning Regulations require purpose. Zoe W. clarified that the issue is that of location, not of accommodation.

Nancy B. spoke again from the audience, saying this seems like a bit of a shell game to her; to agree with what is *not* in the regs. She urged the Board to use caution.

Greg W. reminded those present that the previous Hannaford decision does not bind those board members; so there is no precedence set by that decision. The applicant reiterated their opinion that the resolution of Lot 15 is done. The issue here is a subdivision of this land. Ted B. asked for clarity—is this a subdivision or a boundary line adjustment. Zoe W. said it is technically a subdivision revision done by a boundary line adjustment.

Jim Dumont spoke from the audience, saying there is a term called "denovo" which essentially means that nothing the Board decided previously is binding regarding the Hannaford application. He also apologized saying he only just this evening received the applicant's feedback and is not prepared to offer his legal response at this meeting.

John K. reminded those offering comments or questions to speak clearly and loudly enough to be heard on the VCAM recordings.

Sally Reiss spoke from the audience, saying the Farmers' Market being held on Lot 15 was intended to fulfill the community use of the property. The old police station (Lot 1), she suggested, might be a more appealing option to the vendors of the market. This deal before the board would enhance the Hannaford project a lot, but if the Farmers' Market were to settle elsewhere (say Lot 1), she wonders if the applicant is then required to find another community use for Lot 15. Greg W. said he believes the applicant gets credit for accommodating the community use whether or not the Farmers' Market choses to use that space as such. Ted B. agreed that getting further legal consultation on this issue is a good idea.

Regarding the Giroux Lot boundary line revision of 10' (0.13A), the applicant said there are no further additions and no changes to the site plan. The Board had no further feedback or comments. Nancy B. spoke from the audience, asking why the applicants are proceeding with this request. Dick J. said this was being done to supply the appropriate setbacks from the Automotion building. Peter E. agreed, saying the revision is an attempt to meet current zoning requirements. Nancy B. asked if that means that the site was previously acting in noncompliance. Greg W. said no. Peter E. added that landscaping needs to be addressed at site plan approval.

Mary Beth Bowman spoke from the audience, saying she is uncomfortable with the shifting/moving of this application and asked that the Board limit this. Greg W. reminded her that

these items being discussed now were actually part of the application discussed three years ago and are not new to the Board who was prepared at some time to hear them.

Zoe W. moved the discussion along to the Site Plan Revisions for the Automotion site. Stephanie H. addressed the parking numbers, saying there are 60 spaces (an increase of 29 from the previously approved site plan) with 28 in the front portion of the lot. In response to staff comments, the applicant has revised and increased their landscaping plans to better address screening. There remains no internal landscaping proposed as the applicant feels this would impede vehicle traffic and truck turning radii required for the site. Ted B. asked if the parking area would be gravel. Stephanie H. said yes, adding that the plans include reseeding of some areas and adding gravel to another area to create a more uniform lot. Total impervious surface area goes down as a result of these proposed changes by .01A.

Zoe W. asked about the slope on site as it relates to storm water. Stephanie said the current proposal includes plans to re-grade the area to drain west, instead of east, to further reduce runoff to the Darkstar swale. The applicant feels that the proposed plan is adequate for the site. Ted B. asked about the proposal to raise a portion of the site by 6-8' and how that would change the water flow on site. Stephanie said this runoff does get captured by the existing swale and would then transfer to the Hannaford storm water system for further treatment. Peter E. asked if the applicant was calculating the area from the 2005 approved site plan. The applicant said yes.

Bob Thiefals spoke from the audience, saying he remains unclear as to what Hannafords' interest is in Automotions' parking issues. Peter E. said that since the 2005 site plan approval, Automotion has been in violation regarding their parking issues. This is an opportunity and attempt to remove those noncomplying parking spaces via a new plan which meets compliance.

Bob T. spoke again, saying he is frustrated by the idea of Grandfathered zoning. Regarding this parking concern, the building is not a new structure so therefore 5.6.3 regarding loading areas does not apply. None of this complies with regulations for new structures as listed in 5.22.2. He suggests that the Board consider bringing the area up to current standards for new construction. Also, he said, how can the business justify a 2Bay garage using 60 parking spaces? Regarding the site itself, which consists of a large gravel lot in the middle of town, he feels the Board should consider a dialogue regarding curbing, lines and overall design including clearly defining no parking areas. He went on to say that storm water proposals are very important and he opposes the notion that the applicant can just say that it has been "worked out"; sheeting will not work if the grassed area is not maintained and kept clear of all vehicles. Zoe W. thanked Bob for his comments and encouraged him to direct his concerns to the Planning Commission who's work relates to writing the regulations and deciding what to apply to new vs. existing structures.

Jim D. spoke from the audience, saying that the 2005 permit was for use and site plan approval. It was not appealed so the limits set forth in the 2005 permit apply. Under 5.10, our Ordinance says the site use cannot be altered or extended as grandfathered. The first step to changing that would be to modify that 2005 permit (which allowed for 31 parking spaces). John K. asked to see the 2005 sketch plan vs. the current site use. He said he disagrees with the applicant regarding the submission of a thorough report as to the existing site. With no scale to compare to this plan how did the applicant determine the small change in impervious surface area? The applicant agreed to provide the CAD sketch they used to the Board and the Board will make that available to members of the public via the town website. According to the applicant; the 2005 impervious surface area was .69A, the new proposal will make that .68A and the actual area there currently is .60A.

John K. noted that the there is an opportunity here to provide side parking on the Automotion site which could decrease the problematic front parking. He also asked the Board to look at Hart & Mead as a use/scale comparison. Regarding the regulations for new vs. existing structures, he said, regulation language infers that the DRB *may* grant, not *shall.* This should allow criteria to apply. Regarding the applicant's previous mention of temporary rear parking, he said, there has been no radii demonstrated by the applicants regarding what types of trucks use the site and what their requirements are.

Dick J. said when discussing the Site Plan vs. Conditional Use, it is important to remember that in the 2005 decision the allowed spaces were driven by the use of the site; the two are not unrelated. The applicant is asking to nearly double the amount of parking spaces without any Conditional Use Review. He feels that modifying a site and coupling in parking spaces should be done under Conditional Use Review as well. Greg W. said he thinks that Hannaford would like to "uncouple" these reviews. Alex W. agreed with Dick J., saying that additional aspects should be reviewed including off-street parking which relies on the Board and the applicant to have an understanding of the need for the demonstrated parking. One option, he suggested, would be to modify the application to decouple the issues. The applicant said they will not be modifying the application. John K. pointed out that the parking on site now is more than was approved in 2005, and therefore the site is already in violation. Zoe W. agreed. The applicant reiterated that they have no intent to revise their application. Ted B. said any increase in front space parking will not be approvable.

Catherine Goldsmith spoke from the audience, on behalf of Dean Grover, referencing the Act 250 report which discusses filling in Class III wetlands as it relates to downstream flooding concerns. She will be providing written feedback.

Zoe W. made a **motion to continue the public hearing to the 4/1/14 meeting.** Ted B. **seconded the motion.** The Board voted **6-0.**

Alex W. reminded those present that the Board could very well complete this hearing at the 4/1 meeting and asked that they submit any further testimony, comments or feedback in writing to staff prior to Wednesday, 3/26.

Akiko Balchiunas: 2-lot Subdivision Sketch Plan – The applicant is requesting sketch plan approval for a 2-lot subdivision located on a 22.5 acre parcel at 401 Butternut Lane in the Rural Residential 2 Zoning District.
Sarah M. rejoined the Board for this application.

David Burke represented the application with Akiko Balchiunas. He began by detailing a previous DRB decision which denied the applicants' attempt at a 3 Lot Subdivision of the same parcel. This decision, dated 12/18/12, cited 6 specific conditions, most of which pertained to the back end of the lot as it related to access and natural constraints of the site. David B. described the new proposal, a 2-Lot Subdivision, which takes into account those conditions and feedback from the 2012 denial decision.

The new application aims to separate the existing lot into two; an 8.4A lot (Lot 1) which will contain the single family home and the remaining 14.1A lot (Lot 2). The applicant proposes

individual drilled wells and mound septic systems for each lot. The applicant feels this proposal addresses and meets all current regulations.

Greg W. asked about doing a site visit and also asked if the house sites are as originally proposed. David B. said he felt in some ways that the staff report was misleading; the building envelope on Lot 2 would shrink to avoid the 25% steep slope development concern. He went on to say that the envelopes are proposed on moderate slopes of between 15%-25% which are workable and amenable to minimizing impact. The project, he said, will have minimal fringe impacts on the Core Wildlife Habitat area being protected with the latest regulations in the RR2 district. In addition, he said, while access is not dictated by road, the applicant does agree with staff suggestions regarding width, pull-offs etc. He said they also agree with staff comments that the ROW should be 50' wide rather than the stated 25' to meet regulations. The applicant disagree with the "best" Lot 2 access point and David B. said engineering wise, he feels that upgrading the existing woods road is a better idea. Final Plat would show the location for Lot 2 access. He feels that extensive cuts and fills are not appropriate for discussion at this point.

David B. demonstrated on parcel maps via projector where two small streams run through the property. He noted that these two small streams are not shown on town maps but said still the applicant will honor a 50' buffer zone around those. The streams do remain dry for portions of the year. The applicant would accommodate the worst case scenario in regards to Lot 2 access.

Upgrades to the driveway will require some cutting of trees as will the mound septic system, but the applicant still feels that the house will remain visually absorbed by the surrounding very tall trees.

David B. also noted that there are two building envelopes offered on Lot 2, and assured the Board that at final, language would be clear to restrict building to be in either/or, not in both. Regarding energy conservation, he said the building envelopes are severely self-restricted. The woods will preclude solar use, but at the same time will provide both winter and summer weather buffering. The applicant agrees that there should be a legal document to share in the future road maintenance between lots 1 &2 and the existing neighbors (Francises). Having said that, the applicant feels they have exceeded sketch plan requirements with this proposal.

Peter Erb spoke, saying in his opinion, the previous decision on the 3 Lot Subdivision application of this parcel has no bearing on the new 2 Lot application. He went on to say that he feels the application is disrupting the core wildlife habitat and said that the two existing water courses though not mapped with the town or VCGI, should be respected. In addition, he noted that regulation language regarding energy conservation reads as *shall*. The applicant said they are willing to have Green Home Certification to fall back on but said they are not prepared to discuss those details here at sketch plan.

Greg W. said he feels a site visit is important for this application. Zoe W. agreed. Ted B. said he agrees with the Staff report finding Lot 1 having a lesser impact than that of Lot 2. He said he was on the previous site visit to this parcel and agrees with Peter E. that they should address issues or

concerns now vs. extending the Final Plat process. Dick J. was also in favor of a site visit. Sarah M. asked about the Core Wildlife Habitat concern. Alex W. explained that based on maps from the Vermont Fish & Wildlife Department, there is a 100 meter limit for disruption of a core wildlife area. David B. said he feels that the 280' of incursion from this proposal equates to no more than fringe impact. Alex W. said the Planning Commission's aim in this newly protected resource area is to identify and minimize the impacts of that important habitat.

Regarding the applicant's proposal to put two building envelopes as possible house sites on Lot 2, Dick J. asked if the town has ever done this before and if both of those envelopes go on the final plat. Alex W. said it has happened, but is very rare and is at the discretion of the applicant and the Board. David B. said he feels the proposed envelopes are very self-restrictive and reminded the Board that only a very small portion of either envelope will be used. He feels the proposal properly addresses regulations in whole. He also said the applicant is cognizant to protect the on-site water sources.

Zoe W. asked if there were any public comments or questions.

Larry Telford spoke from the audience, saying he is familiar with the site and he agrees that the streams are actually dry most of the year. However, the existing 20" culvert was overwhelmed last year after the spring snow melt and early summer rains. During the months of May-June, he said, there is significant water coming off the hillside and a great deal of "sub-surface" water. He voiced his concerns also with the disruption of visibility from Pond Road as the proposed Lot 2 may want to cut down trees in order to improve the view.

Zach Morton spoke from the audience (also having submitted a written statement), saying he has similar water concerns as the project relates to road modification impacts.

Zoe W. made a **motion to continue the application to 4/15 with a site visit to take place prior to the start of the meeting at 6:00pm.** Ted B. **seconded the motion**. The Board voted **7-0.**

Zoe W. made a **motion to adjourn.** Dick J. **seconded the motion.** The meeting adjourned at 10:35pm.

Respectfully Submitted,
Freeda Powers---Recording Secretary