

TOWN OF TEMPLE  
ZONING BOARD OF ADJUSTMENT

November 12, 2019 Hearing  
Applications of Douglas and Margaret Heck

Minutes

Attendees:

Board Members: Mary Beth Ayvazian, Deb Deleso, Greg Robidoux, Gail Cromwell and John Kieley.

Applicant: Douglas Heck

Chair Ayvazian called the hearing to order at 7:00 PM and introduced the Board. There were no recusals.

Chair Ayvazian reviewed the requisite pre-hearing steps taken:

1. Applicant submitted two applications (Special Exception and Equitable Waiver), provided mailing labels for abutters and paid required fees.
2. Hearing was advertised in local newspaper
3. Hearing was posted on Town bulletin boards
4. Registered letters were sent to abutters.

John Kieley presented a summary of the requirements for a Special Exception (Standards and Conditions) and an Equitable Waiver and how the two worked together in this case.

Doug Heck reviewed the history of his commercial building including fact that he and the Town have known that he was out of compliance with zoning regulations for approximately thirty years. He discussed his previous application to the ZBA for a matter dealing with his house not his business. He also mentioned that the Town tax card has referenced his business premises on the site. He now wants to clean this matter up in order to make him eligible for a State vehicle inspection license.

#### SPECIAL EXCEPTION

The Standards for a special exception were reviewed:

1. Five hundred foot setback from neighbors dwellings. There are two dwellings within 500' and both submitted letters of support thus reducing the requirement to 200'. Neither residence is within 200'.  
Motion by Cromwell second by Deleso that standard 1 has been met. Roll call vote: Deleso yes, Robidoux yes, Cromwell yes, Kieley yes and Ayvazian yes. Declared as unanimous vote in the affirmative.

2. Parking. All parking will be beyond the 55' setback. No appreciable increase in vehicular traffic is anticipated. Applicant committed that no non-customer vehicles will be stored on site.  
Motion by Cromwell second by Robidoux that standard 2 has been met. Roll call vote: Deleso yes, Robidoux yes, Cromwell yes, Kieley yes and Ayzavian yes. Declared as unanimous vote in the affirmative.
3. Property Values. Heck summarized that he keeps the property looking nice and in 31 years has had no complaints from anyone. During that period, neighboring properties have been sold and several new houses have been built and sold. His business does not generate excessive noise or other irritants to neighbors.  
Motion by Cromwell second by Robidoux that standard 3 has been met. Roll call vote: Deleso yes, Robidoux yes, Cromwell yes, Kieley yes and Ayzavian yes. Declared as unanimous vote in the affirmative.
4. Site Appropriate. The property is in a residential zone. The area does include one other garage public as well as the Lukas Foundation. Again, neighbors have not complained and abutters have issued letters of support.  
Motion by Cromwell second by Robidoux that standard 4 has been met. Roll call vote: Deleso yes, Robidoux yes, Cromwell yes, Kieley yes and Ayzavian yes. Declared as unanimous vote in the affirmative.
5. Hazardous waste. Heck committed that no hazardous material (oil, antifreeze etc) has or will be stored on site.  
Motion by Deleso second by Robidoux that standard 5 has been met. Roll call vote: Deleso yes, Robidoux yes, Cromwell yes, Kieley yes and Ayzavian yes. Declared as unanimous vote in the affirmative.
6. Traffic Hazard. Heck again confirmed that he does not expect any appreciable increase in vehicular traffic. On a busy day, the business might do three or four inspections. The high traffic volume on General Miller Hwy, which is a State road, was also discussed. There have been no accidents as a result of traffic coming in or out of the Heck business.  
Motion by Cromwell second by Deleso that standard 6 has been met. Roll call vote: Deleso yes, Robidoux yes, Cromwell yes, Kieley yes and Ayzavian yes. Declared as unanimous vote in the affirmative.
7. Site Plan Review. Site Plan Review by the Planning Board is a requirement for a Special Exception.  
Motion by Kieley second by Cromwell to send the case to the Planning Board for Site Plan Review if the Special Exception application is approved. Roll call vote: Deleso yes, Robidoux yes, Cromwell yes, Kieley yes and Ayzavian yes. Declared as unanimous vote in the affirmative.
8. Review by other Town Boards. The need for other Town boards/committees to get involved was discussed.  
Motion by Kieley second by Cromwell that it was not necessary to ask other boards/committees to provide input on this case other than Site Plan Review by the Planning Board. Roll call vote: Deleso yes, Robidoux yes, Cromwell yes, Kieley yes and Ayzavian yes. Declared as unanimous vote in the affirmative.

Motion by Kieley second by Cromwell that all Standards for a Special Exception have been met on condition that the case goes to the Planning Board for Site Plan Review. Roll

call vote: Deleso yes, Robidoux yes, Cromwell yes, Kieley yes and Ayvazian yes.  
Declared as unanimous vote in the affirmative.

The Conditions for a Special Exception were reviewed:

1. One-hundred foot setback. The distance from Memorial Drive and the commercial building was discussed and it was agreed that this requirement could not be met thus requiring an approval for an Equitable Waiver of Dimensional Requirements by the ZBA.. A secondary structure between the east side of the commercial building and Memorial drive was discussed and Heck agreed, as a condition of any approval by the ZBA to move that structure beyond the 100' setback by May 30, 2020.
  2. Driveways. Heck only has one driveway so meets the requirement.
  3. Footprint of buildings. The 1/8<sup>th</sup> requirement was discussed and it was agreed that property as currently built out complies.
  4. Road. The property is on a State road so condition met.
  5. Food sales. Not applicable.
  6. Drive through. Not applicable.
  7. Five-acre minimum. It was confirmed that the property does not meet this requirement so, again, should be a part of an Equitable Waiver of Dimensional Requirements application to the ZBA. It was noted that this requirement references "new" buildings so it could be argued that this condition shouldn't apply to this case. In the interest of caution, it was agreed by the applicant and the Board to include this Condition in the Equitable Waiver case.
- 8 and 9 The case will require Site Plan Review by the Planning Board.

Motion by Kieley second by Cromwell that the Special Exception Conditions have been met subject to approval by the Board of the Equitable Waiver application for the 100' setback and the 5 acre minimum requirements; this is subject to Site Plan review by the Planning Board and the relocation of the secondary structure. Roll call vote: Deleso yes, Robidoux yes, Cromwell yes, Kieley yes and Ayvazian yes. Declared as unanimous vote in the affirmative.

## EQUITABLE WAIVER OF DIMENSIONAL REQUIREMENTS

Chair Ayvazian reviewed the two alternative ways to qualify for an Equitable Waiver. After a discussion, the applicant and the Board agreed that alternative two was most applicable to this case.

Alternative two requires that the situation has existed for ten years or more and that there have been no complaints filed by any Town or State agencies. The Heck commercial

business has been operated in a residential zone without approvals for more than thirty years and has never received any complaints from the Town or State.

The two-dimensional relief items (100' setback and 5 acres) were discussed.

Motion by Kieley second by Cromwell that requirements for Equitable Waiver of Dimensional Requirements had been met and relief should be granted for the 100' setback and 5-acre minimum. Roll call vote: Deleso yes, Robidoux yes, Cromwell yes, Kieley yes and Ayvazian yes. Declared as unanimous vote in the affirmative.

It was confirmed that the Heck applications were approved and that a Notice of Decision would be prepared and sent to the applicant and the Planning Board.

The Board was advised by Kieley that another case was likely to be coming to the ZBA shortly

Motion to adjourn at 8:32 by Cromwell seconded by Ayvazian. Voted unanimously.

Minutes prepared by Kieley.