

TOWN OF TEMPLE, NH

ZONING BOARD OF ADJUSTMENT

April 20, 2021 Public Hearing (Con't)

Minutes

Applicant - Ben's Pure Maple Products, LLC

ZBA Members present: John Kieley, Greg Robidoux, Bill Ezell, Mary Beth Ayvazian, and Gail Cromwell (Alternate).

Others present: Tom Hanna (BCM Environmental Land Law), Silas Little (Fernald, Taft, Falby & Little Law), Chris Drescher (Town Attorney), Jim Phippard (Brickstone Land Use Consultants), Stephen Haas (Hoyle Tanner), Steve Pernaw (Traffic Consultant) and 20+ interested people.

Chair John Kieley called the hearing to order at 5:30 PM and notified the participants that this hearing was being held electronically pursuant to Executive Order 2020-04, Section 8, Emergency Order #12, Section 3.

Kieley asked each voting board member to state their name and indicate whether they were alone. All members stated their name and indicated they were alone.

Kieley mentioned that all of the required public hearing notifications were successfully implemented.

Kieley summarized the case which is an application for special exception under Temple's zoning ordinance, to construct a 16,080 square foot building for production purposes which includes 3000 square feet of retail space.

Kieley explained that Deb Deieso was called into a business emergency and would not be able to attend tonight. Kieley gave Atty Hanna the option of continuing with four voting members or defer the hearing. Atty Hanna agreed to continue as long as it was understood that Deb could read the minutes of the hearing and participate as a voting member at subsequent hearings.

Kieley named the voting members of the board and asked if any of them had any reason to recuse themselves. All answered they had no reason. Kieley mentioned that alternate members may participate in the dialog tonight but will not vote.

Kieley briefly summarized the steps that led up to. Tonight's discussion:

1. Applicant requested opportunity to submit additional information re real estate values and traffic impact at February 16 hearing
2. Additional information submitted by applicant and discussed at March 2 hearing.
3. Board determined information lacking and decided to solicit proposals from independent experts in each area

4. Proposals were obtained from experts and distributed in advance of March 16

Hearing

5. At March 16 hearing, real estate expert's proposal was accepted by applicant and

Board; traffic expert's proposal was rejected by applicant.

6. At March 30 hearing real estate expert's report was discussed and accepted

7. At March 30 hearing new traffic proposal was accepted

Kieley introduced Stephen Haas from Hoyle Tanner and confirmed that Steve Pernaw was in attendance and could stay until 6:30. Kieley open Board discussion on the Haas report:

- Bill Ezell commented that subject to the site line question raised in the HT report, it seemed to confirm the Pernaw study.
- Kieley asked HT to comment on the 6 peak AM traffic count in the Pernaw study vs 100+ in the DOT memorandum supplied by the applicant. HT response was that the 6 was based on a syrup business vs broader retail store. HT reviewed the applicant's business plan which had been previously provided and offered that he would look into further but didn't expect traffic count to reach DOT level. Pernaw explained that code 851 convenience store would carry a broad range of products vs a maple based business here with other "accessory" products. Kieley confirmed applicant's commitment that there would be no scratch tickets or beer sales; Hanna added cigarettes would not be sold. HT to review expected traffic counts and submit an update within a week.
- Gail Cromwell commented on the large increase in retail sales space (old building vs new) and questioned whether the DOT trigger of 100+ cars should be evaluated. Discussion re assumption that 74% of traffic to site would come from the east; HT response was that this was a conservative assumption in terms of traffic impact. Question of using a new curb cut on Rt 101 vs access from Webster; Jim Phippard stated that DOT would not allow a new curb cut because there is adequate access from Webster.
- MB asked about plans to offer breakfast or other meals. Ben Fisk responded that there would be one or two tables inside for and a few picnic tables outside but no restaurant service. Kieley commented that this sounded similar to the Dublin Store.
- Greg asked if it would be possible to do a phone survey of similar local business to determine what their customer counts are. Kieley asked if there was an established source for this type of data. HT responded that the ITE "Trip Manual" was the standard source and they don't have a good match for this business. Bill commented that the Dublin Store doesn't seem to impact traffic flow on Rt 101.
- Steve Pernaw offered that even projecting traffic to 2032 only 31% of the capacity of this intersection is utilized. This doesn't mean no queues. In 2032 this intersection would have a "D" rating from the State. Pernaw confirmed that he was looking at this as a maple based business...no restaurant, few tables, limited products for sale etc. HT commented that it would take a lot of additional traffic to create problems.
- Atty Hanna asked Steve Pernaw to comment on Silas Little's recent letter re traffic. Pernaw confirmed that he accepted the applicant's retail vehicle counts then added employee and truck traffic. He stated he "didn't need to know about toilet paper sales". Pernaw confirmed that he did

take COVID traffic reductions into consideration and that that was outlined in his reports. Little mentioned a Florida traffic study which showed COVID related traffic reductions of 47%. Pernaw confirmed that traffic generated by other Webster Hwy was taken into account.

- Hanna asked HT to provide comments on site distances in their next submission. HT agreed to do.

Kieley referenced deferring deliberations until new HT submission was in and all voting members were present.

It was agreed that the next hearing would be on April 29 at 5:30 PM via zoom.

Motion by Kieley to adjourn at 6:32 PM, second by Ayvazian. Roll call vote; unanimously approved.