

TOWN OF TEMPLE, NH

ZONING BOARD OF ADJUSTMENT

December 1, 2020 Public Hearing (Con't)

***Applicant - Ben's Pure Maple Products, LLC***

**ZBA Members present:** John Kieley, Deb Deleso, Greg Robidoux, Bill Ezell, Mary Beth Ayvazian, Gail Cromwell (Alternate) & Honey Hastings (Alternate)

**Others present:** Tom Hanna (BCM Environmental Land Law), Jim Phippard (Brickstone Land use Consultants), Silas Little (Attorney), Stephen Pernaw (Traffic Evaluation), Brian Underwood (Opinion on property value impact), Bill Dresher (Town counsel) and 20+ interested people.

*Chair John Kieley called the hearing to order at 5:30 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 mentioned that all of the required public hearing notifications were successfully implemented.*

Kieley summarized the application for special exception under Temple's zoning ordinance, to construct a 16080 square foot building for production purposes which includes 3000 square feet of retail space for the sale of a wide variety of products. Under the special exception rules, the applicant must prove that the conditions of Section 13A Special Exception Standards, and 13B Special Exception Conditions, are or will be met.

Kieley named the voting members and asked if any of them had any reason to recuse themselves. All answered they had no reason. Kieley mentioned at the last hearing there were a number of areas left under question. Therefore, at this hearing, 3 subject matter experts were available to answer questions on the traffic study and on the opinion letter on property values. Kieley also noted the ZBA had previously met with town counsel on a number of topics.

Steve Pernaw spoke first on the two previously submitted traffic documents. He discussed the road widths, speed limits, traffic volume data etc. He also answered questions from board members and attorney Little. He also noted he uses the Highway Capacity Manual which the DOT recognizes and approves. Attorney Hanna commented that the retail store will be under 3000 feet and the products sold will be mostly maple product related and in no way is similar to a 711 type store as it had been previously compared to. Pernaw stated that his calculations were based on a maple syrup retail business and not broader retail.

Brian Underwood spoke about his property value impact opinion letter and summarized there is no evidence of diminution in property values on either Webster Highway or Old Revolutionary Road, as a result of this proposed facility on route 101. His evaluation included inspection of the existing operation, the 101 corridor, conversations with the applicant and comments from property owners. Brian also addressed Attorney Little and the boards questions which included a request by the board to see the research data Brian used for his evaluation.

Kieley mentioned there were a couple of topics discussed with town counsel. One being the applicant has been unable to obtain a release letter from one of the abutting landowners across on 101, which is owned by the government, and whether or not the board has the right to grant a waiver of the 500 foot requirement. Counsel stated the board does not have that authority. Kieley mentioned some options for the applicant to consider including applying for a variance.

Kieley also mentioned that the zoning ordinance calls for a 500 foot set back from the properties of others, and at the boards discretion, that can be modified down to 200 feet (or not). The board believes that a couple of those lots are owned by the applicant as an individual, not as Ben's Pure Maple LLC, and the question is, are these properties exempt from the setback or not.

Kieley went on to say these new legal issues were not going to be finalized or deliberated tonight. He mentioned two possible hearing dates to continue with the case. The November 17th hearing minutes were then discussed and a motion was made by Mary Beth Ayvazian to approve the minutes as modified. Ezell seconded, roll call vote was unanimous to approve.

It was agreed by all parties to continue the hearing on January 5<sup>th</sup> at 5:30. Ayvazian motioned to adjourn the meeting at 7:25 to a date and time of January 5<sup>st</sup> at 5:30 via Zoom. Deb Deleso seconded, roll call vote unanimous in favor.

Minutes respectfully submitted by Carole Singelais