

TOWN OF TEMPLE, NH

ZONING BOARD OF ADJUSTMENT

March 30, 2021 Public Hearing (Con't)

Minutes

Applicant - Ben's Pure Maple Products, LLC

ZBA Members present: John Kieley, Deb Deleso, Greg Robidoux, Bill Ezell, Mary Beth Ayvazian, Gail Cromwell (Alternate), Deb Harling (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), Brian Underwood (Real Estate Consultant), Heather Peterson 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 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 summarized steps leading up to today's discussion re real estate values and traffic impact:

1. Applicant requested opportunity to submit additional information re real estate values and traffic impact at February 16 hearing.
2. Additional information was submitted by applicant which was reviewed by the Board in advance, and was presented and discussed at the March 2 hearing.
3. Board determined at the March 2 meeting that information was lacking and that they would solicit proposals from independent experts in each area.
4. Proposals were obtained from experts in each area and distributed in advance of March 16 Hearing.

5. Board and applicant agreed to real estate expert's proposal but applicant rejected traffic expert's proposal.

6. Tonight the real estate expert's peer review report will be discussed and a new traffic peer review proposal will be considered

Kieley confirmed that the objective of these steps was to give the applicant every chance to prove that real estate values and public safety would not be adversely affected by the proposed business.

Review of the Real Estate Peer Review report:

General discussion by Board:

- Attributes of properties and attitudes of buyers determine value vs predisposition of current owners toward a particular proposed use
- Lack of data makes determination difficult
- LeMay statements that Underwood conclusions not supported by data, maintenance of highest and best use doesn't preclude reduction in value due to new commercial venture etc
- The one data point available doesn't show diminishment in value
- Consensus that Board should move forward with the real estate information that we have.

Applicant:

- Hanna statement that LeMay report does not discredit Underwood
- 56 Webster Hwy sale is an important data point
- Heather Peterson presentation
 1. Real estate agent for 43 years
 2. Bedford and Marlborough not comparable
 3. Property on Wilson Rd in Temple next to Wheelands sold in 2018
 4. Property across from House by the Side of the Road sold recently
 5. Property across from Brookside recently sold
 6. Property across from Dublin Citgo in under agreement
- Hanna stated and Ben Fisk confirmed that "Existing business on Webster Highway will be discontinued".

Board:

- Kieley suggested reading the LeMay report to understand his conclusions

Public:

- Attorney Little:
 1. Peterson example of property across from House by the Side of the Road inappropriate because it is commercial
 2. Easy to talk about lack of real estate data in the abstract but the Robbins gravel pit is a real example of the impact of commercial operations in this area

3. The applicant has the burden of proof re real estate values
- Mike Flynn:
 1. New to Temple and more retail would make the town more attractive to new buyers
 2. Applicant shouldn't have burden of proof
 - Cam Lockwood:
 1. Peterson comparisons are all Rt 101 properties while the issue here are values on Webster Hwy and Old Rev
 - Bill Ezell:
 1. Reminder to Flynn that it's the State that sets the ZBA's requirements
 - Keith Charlton:
 1. Question whether truck activity on Old Rev would be discontinued
 2. Confirmed by Ben Fisk that all truck activity would be redirected to new site and there would be no trucks on Old Rev
 - Steve Anderson:
 1. Statement that the Robbins pit did not draw complaints from area residents
 2. Kieley, Little and Willard all cited background information about complaints and resulting Town action
 - Tom Hanna:
 1. Gravel trucks are different than tractor trailer trucks
 2. Applicant will only have 5 trucks a day, 5 days a week and all in middle of day
 3. Trucks will be only going a short distance from Rt 101

The real estate discussion was closed.

Kieley asked for a Board discussion of the Hoyle Tanner traffic peer review proposal. Tom Hanna confirmed that the applicant accepted the proposal. Motion by Kieley, second by Ayvazian to accept the Hoyle Tanner proposal for a peer review of the two Pernaw traffic studies. Roll call vote; unanimously approved.

Motion by Kieley, second by Ayvazian to accept the LeMay real estate peer review report. Roll call vote; unanimously approved.

It was agreed that the next hearing would be on April 20 at 5:30 PM via zoom.

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