

TOWN OF TEMPLE, NH

ZONING BOARD OF ADJUSTMENT

September 29, 2020 Public Hearing (Con't)

Applicant - Ben's Pure Maple Products, LLC

ZBA Members present: John Kieley, Deb Deleso, Greg Robidoux, Gail Cromwell, Bill Ezell, Mary Beth Ayvazian and Honey Hastings.

Others present: Tom Hanna (BCM Environmental Land Law), Jim Phippard (Brickstone Land use Consultants), and 30 + Temple Residents.

Chair John Kieley called the hearing to order at 5:00 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 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 also updated everyone on the results of the September 15th hearing scope and the voting results as follows:

- 1.) Whether the contemplated project, if approved, reasonably could be construed as having the potential for regional impact, in accordance with RSA 36:56; The board voted against the application having a regional impact and,***
- 2.) Whether the ZBA wishes to allow the matter to be considered at a joint meeting with the Planning board. The board voted against having joint meetings with the planning board.***

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

Kieley stated that this hearing is to discuss the merits of the case. Kieley asked each ZBA member if they needed to recuse themselves from voting on this case. All members said no. Kieley stated that the 5 voting members for this meeting were going to be Kieley, Ezell, Robidoux, Deleso and Ayvazian and that Cromwell and Hastings were alternates. Kieley noted the outline and rules of procedure for this meeting. Mr. Hanna objected to the addition of Mary Beth Ayvazian as a voting member of the board and believes that the voting members should remain the same as the September 15th hearing. Kieley noted that the last hearing was limited to two narrow subjects not the merits of the case. Mr. Hanna also noted he objected again to having Gail Cromwell present at the hearing. Mr. Hanna also stated that the anonymous letter received by the board should not be circulated or considered in this case and if any board member knows the author, they should sit this case out. Kieley agreed he had a point and he advised the board that for the time being, they should ignore the letter and they should also ignore the clippings from Facebook that Mr. Hanna provided as neither have been proven to come from Temple residents.

Mr. Hanna continued on and told the audience Ben's story. He was a boy with a dream and the town should be proud and delighted that he has a major maple operation which fits right in with Temple's rural character. He also mentioned that section 4-12 of the ordinance states that Farming and Related Rural Pursuits including sugaring, that have been normal in this town are permitted. Therefore, he has advised Ben that his proposed building could be built without any zoning or planning review because it is Agricultural. He noted they were advised to go the special exception site plan review route because of the financial bankability side of things. Mr. Hanna also stated that Ben has done all the right things with this process and has already spent 100K on engineering, site plan review, expertise surveying, agricultural advise, legal fees etc. Mr. Hanna noted that the new facility is in large part a replacement of an existing operation.

Jim Phippard spoke and video shared the documents showing the interior and exterior of the proposed building. He discussed the proposed location, curb cuts, parking, delivery truck entry, landscaping, lighting, etc. He noted the "barn look" of the building will fit right in with the rural character of Temple. Mr. Phippard also discussed the traffic memo and vehicle trips during peak times. He indicated that the DOT was not concerned with any safety issues. The question was raised whether the DOT was told that this was not just a maple weekend event but was now a much larger year-round commercial operation? He noted that the configuration of the intersection was confusing and that people need to be respectful and patient when turning. He also indicated that the Temple Fire Chief only found 2 accidents over a 4 year period at that intersection. He also noted that the additional parking areas will prevent cars from parking along route 101 during the busy season. The board had some additional questions that Mr. Hanna will need to get the answers to and report back. One being that the tax card suggests the present operation is 5,669 sq.feet, not 12,000 which has been alleged several times. He was asked to indicate where the extra space is. The Board also asked where the equipment and trucks will be parked and stored overnight.

Mr. Hanna then spoke to each section of the ordinance as follows:

13-A #1 – Mr. Hanna stated they had written permission from all but one owner and were actively trying to get that one resolved. Kieley indicated that he has only seen one written permission and asked to be provided the others along with documentation of their efforts to contact the 1 remaining owner.

13-A #2 – Mr. Hanna confirmed that all parking is at least 55 feet from all lot lines and that there is going to be ample onsite parking.

13-A #3 – Mr. Hanna stated that although some do not agree with the traffic affect, he believes that traffic does not relate to property value. He said there is no odor, smoke, refuse matter, vibration, dust, fumes or glare from the lighting, and there would be limited noise from the truck traffic during the daytime.

13-A #4 – Mr. Hanna stated the structure has a "barn look". Pleasant architecture, colors, and is compatible with the rural NH town of Temple. He said the lot is ideal and is not located near any wetlands, the aquifer is improved, it is flat, and basically perfect for the space.

13-A #5 – Mr. Hanna indicated there will be no hazardous waste on the property. Kieley asked what type of heating fuels would be used. Mr. Hanna responded oil which is not hazardous. Mr. Phippard added that the storage of the heating oil will be in a tank in the building on a slab. If Ben chooses to heat the building with Propane, it will be in a tank outside and underground.

13-A #6- Mr. Hanna stated that Mr. Phippard and Steve Pernaw have done a great job communicating the traffic as not having a negative impact.

13-A#7 – Mr. Hanna reminded the board that there will be plants, trees, fencing, bushes etc. which will be appropriate for the building and the site.

13-A #8 – Mr. Hanna stated it is the boards call and they would be happy to present the proposal to any board or town committee, and that they are going through the planning board site plan review as well.

Honey Hastings asked about the types of lighting. Mr. Phippard indicated the light fixtures will be full cut off LED, energy efficient, and dark sky compliant. Kieleley asked if they comply with Temple's dark sky ordinance to which Mr. Hanna replied he will look into that. Honey mentioned that the drawing did not have the existing structure or gravel parking area on it and asked what is going to happen to that. Mr. Hanna indicated that the small building and driveway would be removed. Kieleley asked about another driveway onto Old Revolutionary Rd. Mr. Phippard said there will be two driveways off Webster Highway and that the others on Old Rev are just convenience paths. Kieleley reminded Mr. Hanna that you can only have 2 driveways in Temple, therefore the applicant agreed to close the pathways. Honey also mentioned as noted in Beth Fox's letter, what about the adjacent property at 5 Old Rev. What is the interaction of that site? What about the barrels and equipment there, will they be moved to the new site? Honey then asked if we should do a site review. Mr. Hanna said he will get an answer about the 5 Old Rev rd. and commented that he did not see Beth Fox's letter. Kieleley said many letters came late today and were forwarded to him.

13-B – Mr. Hanna stated they will comply with all 8 special exception standards. He also will get back to the board regarding one business vehicle on site.

Kieleley asked for anyone from the public who were in favor of the application to now speak. 7 residents spoke very highly of Ben and the project and felt it was being done properly, will benefit the town, and feel the parking will be better and off the main street. One resident even said he hopes that the board helps Ben accomplish his dream.

John Kieleley then proposed to continue the hearing when they will hear all of the residents who are not in favor of the project and then move to board deliberations. He also reminded the board that the anonymous letter and the FB comments, should not be given any weight when deliberating unless documentation can be provided that confirms these comments came from Temple residents. Kieleley then asked the board if they wanted to do a site visit. All members agreed a site visit will be helpful. Honey asked that the driveway entrances be flagged. October 7th at 5:30 was decided for the site visit. Kieleley noted that public can also attend this visit. Kieleley then made a motion to adjourn the hearing until October 7th at 5:30 on the proposed site, and that the next hearing would be on October 20th at 5:30 via zoom. The motioned was seconded by Ayvazian. Roll call vote, Ayvazian yes, Ezell yes, Deleso yes, Kieleley yes, Robidoux yes.

