

August 10, 2020

VIA HAND DELIVERY  
John Kieley, Chair  
Zoning Board of Adjustment  
Town of Temple  
423 Route 45  
PO Box 191  
Temple, NH 03084

**RE: Application for Special Exception-  
Tax Map 2, Lot 17- Property of Ben's Pure Maple Products LLC**

Dear Chair Kieley and Members of the Zoning Board:

Enclosed is the application packet to the Zoning Board of Adjustment ("ZBA") for Ben Fisk's proposed new production facility on his 6.88-acre field at the intersection of Webster Highway and Route 101. Part of the building includes a 3,000 square foot space for retail sales of food products, Ben's maple syrup and a variety of maple products. As such, we are applying for a Special Exception even though the majority of the 16,080 square foot building consists of agricultural use.

Much time, thought and expense has gone into planning this project. We believe the use is ideal for this site.

We are simultaneously applying for Site Plan approval from the Temple Planning Board ("PB"). Therefore, we request a joint hearing of the ZBA and PB as provided by Section VIII of the ZBA's Rules of Procedure and RSA 676:2.

The enclosed application packet includes the following:

1. Signed General Application Form, including Page 6 calculations of Application Fees and Page 2 signatures of the applicant/owner, Ben Fisk;
2. A check in the amount of \$419.25 for the required fees (application, notice to abutters and newspaper publication of public notice);
3. Special Exception Responses (Section 13A and 13B), with Site Plan Review narrative and letter from Edward and Lorraine Vickery appended;
4. Two sets of mailing labels for all abutting property owners (as defined by RSA 672:3), licensed professionals on plan, and owner/applicant;
5. Two copies of the site plan set showing existing and proposed improvements, drawn to scale, with existing and proposed setback distances; and

6. Two sets of photographs showing all sides of the proposed new structure.

Please let me know if I have omitted anything. Please also acknowledge receipt.

Sincerely,



Thomas R. Hanna, Esq.  
(603) 225-2585 (office)  
(603) 252-3916 (cell)  
hanna@nhlandlaw.com

# TOWN OF TEMPLE ZONING BOARD OF ADJUSTMENT

## GENERAL APPLICATION FORM

Revised June 2019

### Type of Application:

(check all that apply)

- Special Exception  
 Variance  
 Appeal of Administrative Decision  
 Equitable Waiver of Dimensional Requirement

### 2. Applicant:

Name(s): Ben's Pure Maple Products, LLC

Address: 83 Webster Highway

City: Temple State: NH Zip: 03084 Phone: 603-562-6595

Email: \_\_\_\_\_

### 3. Property Owner(s):

Name(s): Ben's Pure Maple Products, LLC

Address: same as above

City: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_ Phone: \_\_\_\_\_

Email: \_\_\_\_\_

### 4. Primary Contact:

Name(s) Thomas R. Hanna, Esq.

Phone: (w) (603) 225-2585 or (c) (603) 252-3916

Email: \_\_\_\_\_

Applicant  Owner  Attorney

James Phippard

Brickstone Land Use Consultants, LLC

(603) 357-0116

jhippard@ne.rr.com

Surveyor/Engineer

### 5. Project Name: Ben's Sugar Shack

Street Address: Old Revolutionary Road

Tax Map: 2 Lot: 17

Acreage: 6.88

### 6. Zoning District(s)

(check all that apply):

Village and Historic Preservation

Rural Residential and Agricultural

Mountain

### 7. Request

Please explain what you are seeking from the ZBA.

A special exception to allow a 16,080 square foot building to house a new production facility for maple syrup and maple products, including a small market area of 3,000 square feet for retail sales of food products, Ben's maple syrup and maple products.

# TOWN OF TEMPLE ZONING BOARD OF ADJUSTMENT

## GENERAL APPLICATION FORM

Revised June 2019

### Attachment 2

#### Zoning Board of Adjustment Application Fee

A fee will be charged sufficient to cover the ZBA's administrative fee, the mailing of legally-required notices and placing a notice in the local paper. The ZBA is authorized to select and retain outside technical, investigative, or legal assistance when the ZBA deems such assistance to be necessary to properly evaluate any application and the ZBA may charge those expenses to the applicant.

1. Application fee:	\$ 150.00
2. Required notices: \$6.95 x 15 *	\$ 104.25
3. Newspaper notice: **	\$ 165.00
4. Professionals retained by the ZBA: ***	\$ _____
5. Total Application Fee	\$ 419.25

#### Notes to above:

- \* Actual cost times number of notices
- \*\* Actual cost
- \*\*\* To be assessed by ZBA

To find out about specific fees, or to get answers to questions, contact the Town Office at 878-2536.

# TOWN OF TEMPLE ZONING BOARD OF ADJUSTMENT

## GENERAL APPLICATION FORM

Revised June 2019

An application may be delivered to the Town offices by hand (see Town website for office hours) or by US mail. An application will be considered received when stamped below.

Note: As an applicant, you must be familiar with each of the following:

- a. Temple Zoning Ordinance
- b. Temple ZBA Rules of Procedure
- c. New Hampshire statutes on zoning (RSA's)

Documents a and b are available on the Town's web site or Town office. Document c is available on the State's website.

### AUTHORIZED SIGNATURES

I/We certify that we have read the above Application Instructions and that this application is correctly and accurately completed in accordance with the Town of Temple's Zoning Ordinance and the requirements of this application. I/we agree to pay the fees outlined in the attachment to this application.

Ben FISK  
Applicant(s) Signature

08-03-20  
Date

As property owners, I/We give the applicant and/or agent, as stated hereon, our authorization to submit this application and represent us on matters relative to the Town's ZBA process. I/We also authorize members of the Temple ZBA and its agents access to the property described on this application for on-site review of the proposed application if necessary:

Ben FISK  
Property Owners(s) Signature

08-03-20  
Date

Office Use Only
Date Received: _____
Fees Paid: _____
Initialed: _____
Case #: _____

## SPECIAL EXCEPTION RESPONSES

The following are responses to the Special Exception standards set forth in Section 13A. The applicant will comply with all of the conditions listed in Section 13B of the ordinance.

- 1) The proposed use shall be set back at least five hundred feet from any existing dwelling of another owner; provided, however, that, at the discretion of the Board of Adjustment, this distance may be reduced in any amount to a minimum of two hundred feet, but only if written permission is obtained from the abutting owners affected;**

The Applicant has obtained written permission from all but one abutting owner between 200 and 500 feet, building to building, from the proposed building on the Applicant's property. There are no abutters with their dwellings within 200 feet of the proposed building. One abutter at Map 2A Lot 51 is across Route 101, approximately 450 feet from the proposed building. The former resident of this site provided written permission. The property is now owned by Fanny Mae, technically FHLMC, and this absentee owner is unresponsive. Under the circumstances, fairness dictates, and we request, that the ZBA waive this minor, 50-foot shortfall.

- 2) The proposed use shall have off street parking which will be ample to serve the proposed use; provided, however, that any such off-street parking shall, at a minimum, be set back at least fifty-five (55) feet from all lot lines.**

The proposed use will have ample off-street parking. No street parking will serve this use. The site is designed to accommodate trucking traffic, both sap trucks and other transport trucks, in and out of the site with ample designated parking for large vehicles as necessary for that use. The site also includes parking for employees and ample parking for the public to visit the maple operation and the retail store. See attached Site Plan application and narrative.

All parking is set back a minimum of fifty-five (55) feet from all lot lines, as shown on the Site Plan submitted to the Planning Board and ZBA.

- 3) The proposed use shall not adversely affect the value of adjacent property. An adverse effect on adjacent property is one which would be obnoxious or injurious or limit the use of neighborhood property by causing such problems as excessive noise, odor, smoke, refuse matter, vibration, traffic, dust, fumes, light, glare, drainage, or other conditions that are associated with the intended use but are not typical of permitted uses within the area.**

The proposed use will not adversely affect the value of adjacent property. Indeed, the proposed site is ideal for this commercial/agricultural use. The property to be developed is located on NH Route 101, a highly-trafficked regional highway. It is a large lot with minimal visibility from homes on Webster Highway and Old Revolutionary Road. Traffic going to the property will be on NH Route 101 and on Webster Highway for a very short distance. The majority of retail customers will come from NH Route 101 and therefore will not pass any abutting dwellings on Webster Highway or Old Revolutionary Road

before arriving on site. Trucking traffic will be similar to other small commercial uses, farm uses, and small retail uses.

Maple production is a relatively low-impact operation. The operation will emit no odor, smoke, noise, vibration or other obnoxious conditions.

- 4) The proposed site shall be in an appropriate location for the use. Among the factors the Board of Adjustment will consider are: lot size, topography, soils, water resources, road access and locations of driveways, condition of existing structures and other relevant characteristics such as whether the proposed use is compatible with the surrounding land uses.**

The proposed site is an ideal location for this use. The lot is large (6.88 acres) and is currently used as an agricultural field. The proposed building will be located reasonably close to NH Route 101 and Webster Highway. The business will have excellent road access to NH Route 101, as needed for both transport in and out of the site, visitor visibility for the retail store and visiting the maple production facility. Driveway access onto Webster Highway will provide both easy turning in and out of the site and little impact on other property owners. There are no existing structures. The design of the building will conform with the rural and agricultural character of the area, designed to appear similar in design to agricultural buildings, farmstands, plant nurseries, and other rustic-looking buildings. The goal is for the building to be a welcoming agricultural retail and production operation, not an imposing modern commercial building.

- 5) No hazardous waste shall be permanently stored on or disposed of on the property.**

No hazardous waste will be permanently stored on or disposed of on the property. No hazardous waste is used or produced in the production of maple products.

- 6) Traffic generated by the proposed use shall not present a safety hazard to the community for either vehicles or pedestrians, nor shall it cause excessive wear and tear to town roads.**

The proposed use will not present a safety hazard to the community. The site has no nearby sidewalks and virtually no pedestrian traffic onto the site. The internal walkways and parking is configured for pedestrian safety and safe traffic flow. The road onto which the site will direct most of its traffic is a large state road, Route 101, that already carries significant truck and other vehicular traffic. No State DOT driveway permit is required.

- 7) Appropriate buffering landscaping shall be provided within the setback areas, of a type and amount deemed appropriate by the Planning Board during Site Plan Review.**

The proposed building will be partially screened from NH Route 101, Webster Highway, and Old Revolutionary Road as shown in the Site Plan. The nature of the business requires some exposure to the passing traffic on NH Route 101, but there will be appropriate landscaping and buffer trees will be added.

- 8) The Board of Adjustment shall, when appropriate, request a recommendation from the Planning Board, the Conservation Commission, Road Agent and/or the Health Officer concerning the proposed use.**

The Applicant is applying for Site Plan approval from the Planning Board and is requesting a joint meeting between the Planning Board and Zoning Board of Adjustment regarding that application and this request for a special exception. No wetland impacts are proposed.



SITE PLAN REVIEW APPLICATION  
PROPOSED BEN'S SUGAR SHACK

for  
Ben's Maple Sugar Products, LLC  
83 Webster Highway  
Temple, NH

July 17, 2020

**Narrative**

The site is in the Rural/Agricultural District at the intersection of Webster Highway and Route 101 and is Tax Map 2A lot 17. This is a 6.88-acre lot and is bounded on the north by Old Revolutionary Road and several single family residences, on the east by Webster Highway, on the south by Route 101, and on the west by residential properties. The site currently contains a small shed and gravel parking area at the southeast corner of the property.

The applicant would like to construct a new 16,080 sf building to house a new production facility for maple syrup and maple products. The facility will also include a small market area of 3000 sf for the retail sales of Ben's Maple syrup, maple products and food products.

**Hours of Operation**

The hours of operation will be M-F 6:30AM – 7PM and Sat 8AM – 7PM, and Sun 8AM – 5PM. They will employ up to 26 employees during peak season and expect to average up to 100 customers per day.

**Driveways**

The site will be accessed via two new driveways at Webster Highway. The southernmost driveway will be approximately 250 feet from the intersection at Rt. 101 and will serve as the customer access to the site. The northernmost driveway is approximately 200 feet north of the main driveway on Webster Highway and will serve as the truck and delivery access to the site. Each driveway has excellent line of sight in both directions. A NHDOT Driveway Permit is not required.

**Traffic**

We believe approximately 150-200 customers per day will be generated in the peak season during March and April and an average of 100 customers per day the rest of the year. The AM peak hour (7AM – 8AM) is estimated to be 25 vehicle trips at Rt. 101 and the PM peak hour (4PM – 5PM) is estimated to be 35 vehicle trips. Truck trips making deliveries to and from the facility will vary from 3 to 15 trucks per day depending on the time of year, with the highest number being sap deliveries during February, March and April. This small number of vehicle trips will not result in a significant change to safety or capacity at this location on Webster Highway or at Rt. 101. A NHDOT Driveway permit will not be required.

**Drainage and Grading and Erosion Control**

The existing site is a flat site with well drained sandy soils. Runoff created by the new building and pavement will be collected on site through the use of catch basins and curbing. The runoff will then be infiltrated using infiltration strips next to the building and

perforated pipes laid in stone leading to a small stormwater pond at the front of the site. The stormwater system has been designed to retain and infiltrate a 25-year design storm. No increase in runoff will leave the site.

Sediment and Erosion control will be accomplished with silt fence at the perimeter of disturbed areas to prevent sediment from leaving the site.

### **Lighting**

Site lighting will consist of LED wall paks and LED pole lights using full cutoff fixtures. After store closing, only the building mounted lights will remain on for security. Please see attached lighting cut sheets for lighting fixtures.

### **Utilities**

A new underground electrical service will be brought into the site from an existing pole on Rt. 101. Water will be provided from a new well to be located near the northeast corner of the site.

### **Fire Protection**

The stormwater pond at the front of the site will also be used for the discharge of water from the reverse osmosis process in the production of maple syrup. This will result in a water supply of over 100,000 gallons available for fire protection at the site. A dry hydrant will be installed north of the pond and adjacent to the driveway leading to the loading dock area.

### **Snow Storage**

All snow will be stored on site. Areas have been designated on the site plan at the west side of the site to store snow.

### **Floodplain**

This property is not located in the 100-year floodplain.

### **Landscaping**

Landscaping will be placed along the Rt. 101 frontage with a row of Sugar Maples to be planted with split rail fencing between the trees. Forsythias will be planted along the east side of the new building. Almost all of the existing trees along the west side of Webster Highway will be preserved except for trees within the proposed new driveway locations. Areas adjacent to the building and the parking areas will be loamed and seeded and maintained as lawns.

**Wetlands:** No impacts to wetlands are proposed.

### **Architectural Appearance:**

The proposed building will be a single-story wood framed building with a steep pitched roof similar to a wooden barn. Roofing will be dark green asphalt shingles and the exterior walls will be vertical wood board siding. An ell shaped porch will be built on the southeast side of the building. Glass storefront and traditional double hung windows will be installed to provide a pedestrian friendly scale facing Rt. 101 and Webster highway. The proposed building colors will be tan walls with a green roof. A colored perspective rendering has been provided.

**Consent Form**

1. We, Edward Vickery, are the owners of the dwelling at 3 Old Revolutionary Road Temple, NH 03084, Shown on Temple tax map 2, Parcel A-19.
2. Benjamin T. Fisk, owner of Ben's Pure Maple Products LLC, has plans to locate a facility for the processing, packaging and shipment of maple syrup and maple sugar products, for the retail sale of maple syrup and other products and for on premises consumption of food, on land abutting to NH Route 101, Webster Highway and Old Revolutionary Road.
3. In accordance with article 4, section 12A (1), we hereby give our consent and permission to the location of such commercial buildings within 500 feet. But no less than 200 feet, from our dwelling, and in conformance with the special exception criteria of the Temple Zoning ordinance, as determined by the zoning board of adjustment and/or planning board.

DATE: 7-29-20

OWNER

Ed Vickery  
Jane & Vickery

2A-14, 2A-17,2A-18,2A-27-1

Benjamin T Fisk  
83 Webster Highway  
Temple NH 03084

2A-19

Edward Vickery & Lorraine D Vickery  
3 Old Revolutionary Rd  
Temple NH 03084

2A-32

Steven W Andersen  
Christine M Anderson  
12 NH RT-45  
Temple NH 03084

2A-48

Kenneth M Quinn Trustee  
Susan J Quinn Trustee  
17 Lythia Springs Road  
Temple NH 03084

Stevens & Associates  
95 Main Street  
Brattleboro VT 05301

2A-16

Kenneth P Trudeau  
Samantha C Trudeau  
409 NH Route 101  
Temple NH 03084

2A-20

Daneil A Kuffinec-Copertino Trustee  
Alfred F Copertino Jr Trustee  
96 Webster Highway  
Temple NH 03084

2A-51

FHLMC  
HQ1-THO1  
8200 Jones Branch Drive  
McLean VA 22102-3110

Thomas R Hanna Esquire  
41 School Street #204  
Keene NH 03431

Cardinal Land Surveying  
185 Winchester Street  
Keene NH 03431

2A-15-2

Paul A & Ann C Clifton – Waite  
52 Old Revolutionary Rd  
Temple NH 03084

2A-27-2

Brian Kullgren Trustee  
Joyce Kullgren Trustee  
PO Box 205  
Temple NH 03084

2A-51-1

Michael E Dube & Janet A Dube  
1 NH RT-45  
Temple NH 03084

Brickstone Land Use Consultants  
185 Winchester Street  
Keene NH 03431

Ben's Pure Maple Products LLC  
83 Webster Highway  
Temple NH 03084