

January 5, 2021

Zoning Board of Adjustment

Temple Town Office

By email: board assistant

Re: Application for Special Exception, Tax Map 2, Lot 17 – Ben's Pure Maple Products LLC

Dear Board Members,

This correspondence is for inclusion in the record related to this matter and in follow up to previous correspondence dated September 28, 2020 raising concerns and questions related to this application and November 17, 2020 analyzing the application as it relates to special exceptions standards enumerated in the Temple Zoning Ordinance. The proposal before the board, as represented by the application, applicant submittals and testimony provided by the applicant's representatives is clearly not a relocation of an existing operation in this neighborhood but a significant expansion to production, retail, construction and wood processing business operations/activities that will extend over at least three properties on or adjacent to Webster Highway. It will more than triple this business's footprint in this rural residential neighborhood. This proposal is not to build and operate a sugar shack – but a large-scale (likely the one of the largest buildings in our community) industrial production and retail center.

Included with this correspondence are photos documenting the manner of delivery now utilized by the current operation that were observed in the course of routine travel. Business delivery and business related transportation is a problem now and the application as proposed does not address it.

Photo 1, Tuesday, November 10, 2020 1:27 pm Tractor Trailer parked in the travel way the north lane of 5 Old Revolutionary Road to the east of the 3-bay garage/apartment on this property. A forklift was traveling between the truck and 5 Old Rev. unloading materials. The truck was blocking one travel lane. While not depicted in this photo, based on prior observations to park in this location, the truck backed in the off Old Revolutionary's north Y located on a blind curve.

Photo 2, Friday, November 20, 2020 7:00 am Tractor Trailer parked in the travel way on the west lane of Webster Highway preparing for unloading. A forklift was observed traveling from 5 Old Revolutionary Rd to unload materials.

Photo 3, Tuesday, December 8, 2020 7:07 am Tractor Trailer backing off Webster Highway on to Old Revolutionary Road. To the right of the delivery trailer on Old Revolutionary Road is a tractor staged to unload.

Photo 4, Tuesday, January 5, 2021 7:05 am Tractor Trailer backing off of Webster Highway westerly beyond the 5 Old Revolutionary Road residence blocking the entire travel way of Old Revolutionary Road.

The applicant has provided some additional information to support their position that the area on the north (loading dock) side of the proposed building on the site to be developed is sufficient to

accommodate that activity, those representations do not stand up to scrutiny. They reflect that truck movements are able to leave the property IF the truck in a position when it exits the property that is parallel to the building. How a can (in the space available) a tractor-trailer truck maneuver into this position following backing into one of the loading docks on the north side? These delivery vehicles based on observations submitted are extended cab tractor-trailer units. To maneuver into that position would require numerous turning movements in multi-use parking area that will be difficult giving other conflicting uses including the proposed employee, business vehicle and dumpster location. The path of least resistance to accommodate deliveries will continue to be on street unloading, and continued roadway forklift movements between the business's multiple sites representing a safety hazard to the vehicle and pedestrian traffic on these roads.

The applicant has supplemented their record providing the opinion of an appraiser Mr. Underwood of Rye NH. It includes some references to research (but no data) related to local market conditions and discusses the lack of any negative adjustment by local assessors related to the current commercial operation. I suggest the recent sale of 56 Webster Highway calls into question both the hired appraiser and assessor's conclusions. This property after an extended time on the market, sold for \$375,000 or more than 10% less than the assessed value of \$422,000. An astute owner would be filing an abatement to reduce this assessment.

As previously articulated in correspondence dated 11/17 reviewing the criteria provided by the Ordinance for evaluation of a special exception, the application at this time fails to meet a number of those standards. However, if in the course of its deliberations the ZBA determine that the application should, to support compliance with the ordinance's special exception standards and conditions, I would respectfully request the board be deliberate in its approval and include the following conditions:

- a) Use of the property to the west of the 500' building set back line be limited to improvements and activities depicted on the site plan submitted to support that the proposed use meets the standards applied by the Zoning Board of Adjustment. These uses include a small portion of paved parking, driveway providing access from the front parking lot to the rear lot, a septic system adequate to support the proposed use and customer parking for Maple Syrup Weekend events (late winter/early spring) when overflow parking may be needed. (ZO 13A1)
- b) Outside storage of motorized or stationary equipment, vehicles, trailers, containers or seasonal dining or related uses or other business activities operated or authorized by the applicant in this 500' setback area to the west of the building shall not be permitted without review and modification by the ZBA. (ZO 13A2 and 13B 9)
- c) The existing buffering provided by natural vegetation, the existing hemlock grove and the grade of the property to the west of the building and to the north of the proposed delivery/loading parking area rising in elevation along Old Revolutionary Road and along its western boundary remain unaltered. As represented by the applicant, the large spruce trees (3) located to the north of delivery/loading parking area be preserved as a condition of approval. (ZO 13A1, 3, 4 & 5)

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- d) In addition to the natural vegetation currently west of the existing septic system, that the applicant submit for incorporation into the ZBA's approval a plan for additional landscaping along Old Revolutionary Road. At a minimum that plan should include sufficient conifer trees with a mature height of at least 30' to serve as a visual year-round buffer between the residential neighborhood and the proposed 40' high production facility as part of the ZBA approval. (ZO 13A 1, 3, 4 & 5)
- e) Access to the property be restricted to the 2 driveways depicted on the site plan and all other access ways be complete closed off. (ZO 13B2)
- f) No parking – including but not limited to vehicles, trailers, equipment – motorized or not, be permitted within the 55' parking set back area required by Section 13A2. Overnight parking on the property, including but not limited to vehicles, trailers, equipment – motorized or not, be limited to 3 business vans represented as the business vehicle parking needs on 11/18 by the applicant attorney (at least 2 shall be screened). (ZO 13A2 & 13B9)
- g) Off-loading of deliveries on Old Revolutionary Road and Webster Highway be prohibited. (ZO 13A4 & 6)
- h) On street parking by customers and employees on Old Revolutionary Road and Webster Highway be prohibited in conformance with the ordinance requirements. (ZO 13A2 & 6)
- i) That a design for an adequate septic system – sized for the proposed use detailed be submitted for review by the Zoning Board of Adjustment and incorporated into the approved plan. (ZO 13A3, 4, 5)
- j) Retail, including food service, be reduced and limited to the 3,000 square foot area provided by the ordinance. (ZO 13B8)
- k) In keeping with the characterizations of the desired specialized retail activity by the applicant, hours be limited for retail operations to 11 a.m. to 7 p.m. (ZO 13A3 & 4)
- l) In keeping with the representations of specialized retail activity by the applicant, sale of alcohol products be limited to maple based, sale of lottery tickets, and tobacco or vaping products be prohibited on the site. (ZO 13A3 & 4)
- m) Hours of operation for the production facility be restricted to 7 a.m. to 5 p.m. Monday through Friday from April 15th to December 31. Saturday and Sunday production facility operations be limited to 6 a.m. to 6 p.m. from January to April 1. (ZO 13A3 & 4)
- n) That the Special Exception approval restricts permitted uses and improvements on the property on the parcel to only the improvements and uses (retail/production) as detailed in the application to the board signed by the applicant on 8/3/2020, as represented to the Zoning Board and as modified by any conditions of approval established by the board. Any use additions or changes, additional structures or uses will require review by the Zoning Board of Adjustment. (ZO 13A & B)

Again, I would like to thank board members for their service to the community. You have volunteered for the difficult job of balancing the vision of the town's master plan, the standards of ordinance and interests, investment, and right of property enjoyment of residential neighbors and the business desires of an individual who ambitiously is expanding

his business from a small sugar shack style operation to a large-scale production facility with a large retail footprint.

Respectfully submitted,



Elizabeth A. Fox

62 Old Revolutionary Road

Attachments: 2 pages Photos 1, 2, 3, 4