

February 26, 2021

Thomas R. Hanna, Esquire
BCM Environmental & Land Law, PLLC
3 Maple Street
Concord, New Hampshire 03301

Re: Opinion: Temple Zoning Board of Adjustment
Application for Special Exception

Ben's Pure Maple Products, LLC
Map 2, Lot 17
Webster Highway & N.H. Route 101
Town of Temple, New Hampshire

Dear Mr. Hanna:

At your request, I am providing a second supplement to my original opinion letter dated November 13, 2020. It is my understanding that there are additional concerns regarding the data provided along with my overall opinion. The original purpose of this consulting assignment was to provide an opinion as to whether the proposed maple syrup production facility will impact the surrounding property values. This second supplemental opinion further expands on that opinion and addresses issues raised since my original testimony and supplemental opinion.

I would like to emphasize that it is important to note that the scope of my work related to this project included researching market data and evidence that either indicates an impact on surrounding property values from the proposed use or no evidence of an adverse impact on adjacent property. In a rural town like Temple, limited data is often the "norm" as opposed to the exception. This is certainly the case in Temple.

Limited data does not preclude me from making a well-advised opinion. Based on 29+ years of experience appraising and consulting all over the State of New Hampshire I have opined on a variety of matters similar to those before the Temple ZBA. My professional opinions have been litigated and upheld; in one case, all the way to the New Hampshire Supreme Court.

As former Chairman of the Wolfeboro Zoning Board of Adjustment for 12 years, I am acutely aware of the criteria that members of the ZBA must consider. In my role as ZBA Chairman, we worked collectively as a board to ensure that we followed New Hampshire law and acted as a quasi-judicial board putting aside our own personal opinions about an application and focused solely on the evidence presented before the board.

There were concerns expressed at the last Temple ZBA hearing. I will address each of these concerns in my role as a real estate expert. I have been admitted in both state and federal courts as an expert on these matters. I will also provide my perspective and opinion as a former 12 year chairman of a ZBA.

- There was concern that because of the lack of evidence specific to Temple this somehow precludes me from providing an expert opinion. It is correct that the data for similar agricultural type establishments in Temple is limited to non-existent. However, I am fully confident in my opinion concerning the impact on surrounding property values based on 29+ years of experience and an as a former ZBA Chairman dealing with these exact issues in a small rural town. If limited or no data is the reason for applications not to be approved, then many projects all across New Hampshire rural towns would never receive approval. My purpose in researching and citing sales data was to evaluate whether the data contradicts my opinion; it does not.
- My highest and best use analysis was provided as another alternative perspective on the neighborhood and the potential impact on property values. For example and hypothetically, if the proposed project were approved and as a result of the change of use, it then impacted the highest and best use of surrounding residential properties to a use that would result in a lower value, then one could reasonably conclude that the proposed project has an adverse impact on property values. However, this is most certainly not the case in Temple given the subject property's location on the primary state highway providing east / west access across the southern tier of the state. This is further supported by other rural towns along N.H. Route 101 where commercial development alongside the highway is commonplace.
- The sale data going back 20 years was simply to take a complete look at the most data possible. Regardless if there is one sale or 20 sales over that period, the data is limited at best and difficult to draw specific conclusions. More importantly, I performed a detailed inspection of the neighborhood surrounding the existing Ben's operation and the proposed new location. There is absolutely no evidence whatsoever that the new location will adversely impact property values. Furthermore, the interview I conducted with the real estate broker referenced in my supplemental letter is indisputable professional evidence that there is no impact on surrounding property values in a very recent sale. To suggest otherwise is ignoring the evidence from someone (the broker) who has no vested interest in the project. This is precisely the scenario I describe early in my letter regarding the ZBA acting as a quasi-judicial board in considering the evidence before them and not inserting their own personal opinion.
- My two prior opinion letters presented to the board have not been met with an alternative expert report contradicting the facts, opinions, and analysis presented in my work. As a quasi-judicial board, the ZBA has not received into evidence any other expert report or substantive testimony that would suggest there would be an adverse impact on surrounding property values. The only way you reach an alternative conclusion is to allow personal views of the application into the decision making process. I witnessed this first hand in my role as ZBA chairman and worked very hard with other members of our board to prevent this from occurring.

After considering the additional correspondence submitted to the ZBA since my original opinion, supplemental opinion, second supplemental opinion, and testimony, the additional research and consideration contained herein further supports my opinion that there is no market evidence that the proposed project will diminish surrounding property values or have an adverse affect on adjacent property.

Respectfully submitted,
B.C. UNDERWOOD LLC

A handwritten signature in black ink that reads "B.C. Underwood". The signature is written in a cursive, flowing style with a long horizontal stroke at the end.

Brian C. Underwood, CRE, FRICS