

TOWN OF TEMPLE, NH

ZONING BOARD OF ADJUSTMENT

May 4, 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, and Gail Cromwell (Alternate).

Others present: Tom Hanna (BCM Environmental Land Law), Silas Little (Fernald, Taft, Falby & Little Law), Chris Drescher (Town Attorney), 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 voting members confirmed that they had no reason recuse themselves. Kieley mentioned that alternate members may participate in the dialog tonight but will not vote.

Motion by Kieley, second by Ayvazian to move into deliberations. Unanimously approved.

Bill Ezell muted all attendees except Board members and Attorney Drescher.

Kieley explained the deliberation process the Board had gone through at the last hearing which included roll call votes on each requirement and conditions as well as an overall vote to approve the Special Exception application subject to conditions. Kieley referred attendees to the draft Notice of Decision on the Town website.

Kieley mentioned that at the last hearing the Board had agreed that there were three areas where specifics were "to be determined" and where, as previously specified, the Board could ask the

applicant for additional information. After that hearing Kieley sent an e mail to Atty Hanna suggesting that he be prepared to provide additional information if requested by the Board during the hearing. Rather than being prepared for such questions, Atty Hanna sent an email on the 29<sup>th</sup> which Kieley, as is the Board's normal practice, forwarded to the Board. When Kieley realized that he should not have sent that to the Board because they had not yet specifically asked for the information, he immediately sent a follow up note to the Board asking them not to read the e mail. The time between the two emails was less than 15 minutes.

The Board agreed to review each of the Section 13 A&B requirements, including conditions agreed to at the last hearing, to determine if any modifications were appropriate.

Section 13 A:

13A Standard #1: No discussion or modification

13A Standard #2: No discussion or modification

13A Standard #3:

Discussion re conditions:

- Limit on number of tractor trailer trucks/day. Various alternatives considered including possibility of different limits by season. Agreed to hear information from applicant. Read by Chris Drescher:

“Daily Tractor Trailer Trucks—We suggest that the condition pursuant to Standard 13A #3 should state that the maximum number of tractor trailer trucks allowed on site is 15. (15 is the number of daily trucks on which Steve Pernaw based his traffic study. (See September 8, 2020 traffic memo, Table 1, footnote 3 on page 3.)”

- Motion by Kieley, second by Robidoux to limit the number of tractor trailer trucks per day to fifteen. Kieley yes, Ayvazian pass, Ezell yes, Deleso yes and Robidoux yes. Kieley declared that motion passed.
- Limit hours that tractor trailer trucks can be on the property. Various alternatives considered including applicant's statement about restricting to weekdays.
- Agreed to hear information from applicant. Read by Chris Drescher:

“Limitation on Hours of Tractor Trailer Trucks on Site—We suggest that the condition pursuant

to Standard 13A #3 should state that tractor trailer trucks are allowed on site only between 7

am and 6 pm.”

- Comment that these hours are more restrictive than some of the limits discussed by the Board.
- Motion by Kieley, second by Ayvazian to limit tractor trailer access to the property to 7:00 AM to 6:00 PM Monday through Friday. No tractor trailer trucks on weekends. Roll call vote unanimously approved.
- No other business allowed on the lot. Reference was made to sale of maple syrup equipment which was not a part of the application and therefore not allowed under this Special Exception.
- Special events must be approved by the Select Board and TYPD. Tents must be approved by the Select Board.
  1. Confirmed that under 13B5 food preparation or serving is not allowed outside of the building so could not take place under a tent or anyplace outside.
  2. Interior tables could result in increased traffic load so should be restricted. Any sit-down dining must be incidental to the retail operation.
  3. Should add to condition that Select Board approve duration of tent erection.
  4. Motion by Kieley, second by Ayvazian to approve modifications to conditions. Unanimously approved.

13A Standard #4: No discussion or modification

13A Standard #5: No discussion or modification

13A Standard #6: No discussion or modification

13A Standard #7: Change terminology to “Refer to Planning Board” and Conditions: None”.

13A Standard #8: No discussion or modification

#### Section 13B

13B Condition #1: No discussion or modification

13B Condition #2: No discussion or modification

13B Condition #3: No discussion or modification

13B Condition #4: No discussion or modification

13B Condition #5: Change terminology to “Refer to Planning Board” and Conditions: None”.

13B Condition #6: No discussion or modification

13B Condition #7: No discussion or modification

13B Condition #8: Any retail store shall not exceed 3000 square feet of floor space

Discussion:

- What spaces are shared by retail and production? How should those spaces be allocated? Layout could change in final plans. Should areas like offices, storage, loading dock be allocated? If so how?
- Agreed to hear information from applicant. Read by Chris Drescher:

“Retail Market—Concerning 13B, Condition #8. The proposed condition states as follows:

“Retail space limited to 3,000 square feet inclusive of all areas supporting retail operations including, but not limited to, bathrooms, storage/loading docks, kitchen, deli, meat/fish, etc.”

- a) The 3,000 square-foot retail store should NOT include the cooler and loading dock/storage area, the candy processing room, or the utility room, because these areas are substantially unrelated to the retail store; rather, they are related and integral to the production and wholesale part of Ben’s operation. Further explanations follow:
- b) The Candy Processing room will be used solely for processing Pure Maple candy, of which approximately 1 % will be sold in the retail store.
- c) Less than 15-20% of the loading dock/storage area will contain products sold in the retail store. This area will be used primarily for Golden Delicate Syrup and Organic Syrup, the quality required for pure maple candy. It will mostly contain barrels and maple candy supplies (empty boxes, cardboard, and pallets). Golden Delicate syrup barrels will also be stored in the walk-in cooler, which will have syrup lines running from the cooler to the candy processing room. Less than 10 % of the cooler will house products sold in the store. Much of what is sold in the store will be delivered through the front door, such as fresh produce and other local goods.

d) The utility room will primarily house the mechanicals for the building-wide sprinkler system and should not be considered part of the retail space. “

- Revised condition: “Retail space to be limited to 3000 square feet inclusive of deli, bathrooms, meat and fish, product display, dining etc and an allocated share of the other spaces that support the retail operations”.

Motion by Kieley, second by Robidoux. Roll call vote: unanimously approved.

13B Condition #9: Change terminology to “Refer to Planning Board” and Conditions: None”.

Special Exception Overall

Additional Conditions: No discussion or modifications

General Provisions: No discussion or modifications

Motion by Kieley, second by Ayvazian to approve the Special Exception application of Ben’s Pure Maple Products LLC subject to the conditions confirmed in the Notice of Decision. Unanimously approved.

Motion by Kieley, second by Robidoux to leave deliberative session and return to the hearing. Roll call vote: unanimously approved.

The March 30, 2021 minutes were discussed and modified. Motion by Kieley, second by Robidoux to accept these minutes as amended. Roll call vote: Unanimously approved.

The April 20, 2021 minutes were discussed and modified. Motion by Kieley, second by Ayvazian to accept these minutes as amended. Roll call vote: Unanimously approved.

The April 29, 2021 minutes were discussed and modified. Motion by Kieley, second by Ayvazian

to accept these minutes as amended. Roll call vote: Unanimously approved.

Motion by Kieley, second by Ayvazian to adjourn the hearing. Unanimously approved by roll call vote. Hearing adjourned at 7:05 PM.