

**TOWN OF PLYMPTON ZONING BOARD OF APPEALS
CERTIFICATE OF DECISION ON APPEAL**

Final

RECEIVED

AUG 16 2017

TOWN CLERK'S OFFICE
PLYMPTON

To: Plympton Town Clerk
Plympton Town Hall
Five Palmer Road
Plympton, MA 02367

Re: ~~APPELLANT: John W. Donahue and JLK Realty & Development, LLC~~
APPEAL: May 17, 2017 Zoning Determination
PROPERTY: 0 Lake Street/Assessors Map 2, Lot 2-16
ZONING: Agricultural Residential ("AR")

This matter concerns a vacant parcel of land located at 0 Lake Street (Assessors Map 2, Lot 2-16) (the "Property") and the Appellant's proposal to build a single-family dwelling. A Residential Zoning Application was filed on May 17, 2017. By decision dated May 23, 2017, the Zoning Enforcement Officer denied the application on the grounds that the Property does not meet the minimum lot area and frontage requirements of Section 5.1 of the Town's Zoning Bylaw.

On June 17, 2017, the Appellant filed an appeal with the Zoning Board of Appeals (the "Board"). The Board advertised and noticed a public hearing regarding the appeal and the public hearing opened on August 8, 2017. During the public hearing, the Appellant, through its authorized representative, presented the appeal and the Board took evidence from members of the public and the Zoning Enforcement Officer.

The following Board members were present at the public hearing at which substantive testimony or other evidence was presented and then deliberated toward the decision in this matter: David Alberti, Arthur Morin, and Harry Weikel.

FINDINGS OF FACT

1. The public hearing for the appeal was duly noticed and advertised and duly mailed to the Appellant and Parties in Interest.
2. The Appellant was represented at the hearing by its representative Jamie L. Bissonnette, PE of Zenith Consulting Engineers, LLC.
3. The Property is located in the Agricultural Residential ("AR") Zoning District and is vacant.
4. A single-family home is proposed for the Property.
5. The Property is comprised of 43,560 square feet and it has 150 feet of frontage along Lake Street.

6. Pursuant to Section 5.1 of the Town's Zoning Bylaws, the minimum lot size for properties in the AR Zoning District is 60,000 square feet and the minimum amount of frontage is 150 feet.
7. According to records of the Town Clerk, as described at the hearing by the Zoning Enforcement Officer, the minimum lot requirements set forth in Section 5.1 were adopted on or about October 10, 1985.
8. The Appellant submitted a letter from Attorney Craig Medeiros of Middleboro, Massachusetts, certifying the title to the Property.
9. According to Attorney Medeiros, he examined the chain of title for the Property and the parcels of land abutting the Property, and his examination disclosed that the Property has not been in common ownership with any other abutting parcels since October 6, 1976.
10. According to the records of the Town Clerk, as described at the hearing by the Zoning Enforcement Officer, the Zoning Bylaw in effect on October 6, 1976, required that properties have a minimum lot size of 40,000 square feet and 150 feet of frontage.
11. The Zoning Enforcement Officer was not aware of Attorney Medeiros' certification at the time his decision was rendered.

DETERMINATIONS

On August 15, 2017, following all of the testimony and evidence presented during the Public Hearing, the Board voted 3-0 to make the following determinations:

1. The Appellant asserts that the Property contains adequate lot size and frontage because it is not subject to the limitations set forth in Section 5.1 of the Town's Zoning Bylaws.
2. Massachusetts General Laws, Chapter 40A, Section 6 provides, in pertinent part, as follows: "Any increase in area, frontage, width, yard, or depth requirements of a zoning ordinance or by-law shall not apply to a lot for single and two-family residential use which at the time of recording or endorsement, whichever occurs sooner was not held in common ownership with any adjoining land, conformed to then existing requirements and had less than the proposed requirement but at least five thousand square feet of area and fifty feet of frontage."
3. The Board finds that the Appellant has satisfied the requirements of said Section 6.
 - a. The proposed use of the Property is for single-family residential use;
 - b. The Property was not held in common ownership with any adjoining land when the current bylaw limitations were adopted on October 10, 1985. In fact, the

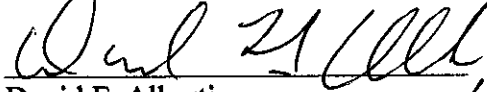
property has not been in common ownership with any adjoining land since October 6, 1976; and

- c. The Property complied with the Zoning Bylaw in effect prior to the adoption of the new limitations, insofar as it has more than 40,000 square feet of lot area and 150 feet of frontage.
- 4. The Board accepts the title certification of Attorney Medeiros as establishing these facts as no contradictory evidence has been presented to the Board.

DECISION

On motion made and seconded, the Board voted 3-0, based upon the Findings and Determinations made above, to grant the Appellant's appeal and reverse the decision of the Zoning Enforcement Officer. The following Board members certify the above decision is a true record of the actions and votes of the Board.

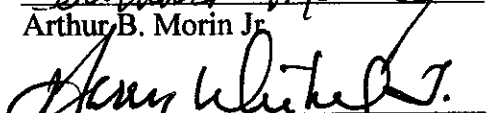
TOWN OF PLYMPTON ZONING BOARD OF APPEALS



David F. Alberti



Arthur B. Morin Jr.



Harry Weikel

Certificate of Decision sent to:

Plympton Town Clerk _____

Appellant John W. Donahue _____

Parties of Interest _____

An appeal under G.L. c. 40A, §17 may be taken within 20 days after the decision is filed with the Town Clerk.