**Subject**

To conduct a Zoning Board of Appeals (ZBA) public hearing for Case no. 20-0706 (“The Case”) regarding Mr. Francis Penney (“The Applicant”) seeking a variance from Plympton’s Bylaw for maximum building height as defined in Plympton’s Zoning Bylaws, Section 11 Definitions, Residential, Building Height.

ZBA members present: Ken Thompson, ZBA Chairperson (“The Chair”) Dave Alberti, ZBA Secretary and Colleen Thompson, Member

Guests: Mr. Tom Millias, Plympton’s Building Commissioner and Zoning Enforcement Officer

Others: Mr. Francis Penney and Ms. Niamh Tarrant, Jon Wilhelmsen and Anne Sobolewski.

Absent: none

**Testimony**

Chair opened the hearing at 1:00 pm and introduced ZBA members and guest then stated ZBA’s compliance with all pertinent public notice requirements for the hearing. He followed by inviting the Applicant to explain the reason for his appeal for a variance. The applicant stated he believes that Plympton’s bylaw is vague with respect to the ‘lower elevation’ of natural grade from which his building height is measured which places his proposed building above the 35 foot maximum height allowance. Mr. Penney feels the elevation of Main street on road centerline at elevation 58 feet is more applicable than the ‘lower elevation’ reference point when considering his proposed house height. He stated the road centerline reference would place the building height below the maximum allowable building height of 35 feet above grade. Mr. Penney also reviewed his responses from “Form 2-Finding of Fact-Variance” document with the ZBA.

The Chair asked for any concerns from the attendees and recognized Ms. Thompson. She asked the applicantto clarify how upholding the bylaw would be a financial or other hardship for him.

Chair recognized Mr. Wilhelmsen who explained the 35 foot maximum building height had been part of the Zoning Bylaws before the definition of building height in as defined in Plympton’s Zoning Bylaws, Section 11 Definitions had been added last year.

Chair recognized Anne Sobolewski who clarified that the maximum allowable building height is measured from the lower point on the property where the proposed building would be constructed as defined in Plympton’s Zoning Bylaws, Section 11 Definitions, Residential, Building Height. She explained this bylaw was voted on at town meeting and put onto affect last year.

The Chair then recognized Mr. Millias where he clarified the building height reference point as the ‘lower point’ is considered in this case to be the lowest point of the natural grade where that grade is disturbed for construction of the house.

At 1:23pm a motion was made, seconded, and voted to close the testimony portion of the hearing.

**Deliberation:**

The Chair suggested, and ZBA members agreed, to vote individually on each of three findings required by Mass General Laws (MGL) contained in the seven findings on Mr. Penney’s Form-2 he presented during testimony. It was noted that each of these three MGL stipulations must all be voted affirmatively by all ZBA members. Results are as follows:

1. “…owing to circumstances relating to the soil conditions, shape, or topography of such land or structures and especially affecting such land or structures but not affecting generally the zoning district in which it is located” …

Vote: Mr. Thompson-YES, Mr. Alberti-YES, Ms. Thompson-YES

1. “…a literal enforcement of the provisions of the ordinance or by-law would involve substantial hardship, financial or otherwise, to the petitioner or appellant” …

Vote: Mr. Thompson-NO, Mr. Alberti-YES, Ms. Thompson-YES

1. “…desirable relief may be granted without substantial detriment to the public good and without nullifying or substantially derogating from the intent or purpose of such ordinance or by-law.”

Vote: Mr. Thompson-NO, Mr. Alberti-NO, Ms. Thompson-NO

A motion was made, seconded, and voted to adjourn the hearing at 2:25 pm.

Respectfully submitted,

Dave Alberti, Secretary

August 20th, 2020