**Subject**

To conduct a Zoning Board of Appeals (ZBA) public hearing for Case no. 20-0507 (“The Case”) regarding Mr. Francis Penney (“The Applicant”) seeking an appeal to the ZBA for the denial of a building permit from Plympton’s Building Department.

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

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

Others: Francis Penney and Niamh Tarrant

Absent: none

**Discussion**

Chair 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. 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 placing the proposed building above the 35 foot height allowance. Mr. Penney feels the elevation of Main street at road centerline, elevation 58 feet, is more applicable as the ‘lower elevation’ reference point. He stated this would place the building height below the maximum allowable building height of 35 feet above grade.

The Chair asked for any concerns from the attendees and recognized Tom Millias. Mr. Millias referred to his letter to the applicant which explains the reasoning for denial of the applicant’s building permit. Mr. Millias made reference to town bylaw guidelines, town lot maps and data on the applicant’s building plans he used to determine that the applicant’s proposed building would exceed the maximum allowable height allowance by approximately 3-1/2 feet.

Chair recognized Dave Alberti who asked if the ‘lower elevation’ is at a point where water collected and the applicant responded in agreement. Dave offered a brief account of the development and approval of the 2019 bylaw which governs the maximum height of buildings in Plympton. Mr. Alberti also suggested that a change in the structural design may help to comply with this bylaw. The Chair asked the applicant if the building complies with the 40 foot set back distance from the road edge to which to applicant responded affirmatively. Chair then recognized Ms. Thompson. She asked if the building is a modular type to which the applicant confirmed as such. She also offered that a change in the building design could be considered for compliance with the height limit. Mr. Millias was then recognized and offered that other municipalities use a mean grade elevation or average grade elevation in lieu of the lowest point of grade elevation where natural grades are considered for building construction.

At 4:28pm a motion was made, seconded and voted to close the hearing.

**Deliberation:**

Ms. Thompson expressed that the intention of the bylaw is clear. The Chair had concerns for a plan to work around the bylaw in some manner. Mr. Millias offered that the ZBA could hear an application for variance, however the applicant must re-apply to the ZBA for a hearing for that variance with no guarantee of positive results. The findings were discussed and the ZBA recognized the need for the applicant to comply with Plympton’s bylaws.

A motion was made, seconded and voted unanimously to uphold the decision by Mr. Millias to deny the applicant a building permit.

A motion was made, seconded and voted to adjourn the Deliberation at 4:50 pm.

Respectfully submitted,

Dave Alberti July 14th, 2020