

MEMO TO APPEALS BOARD
July 30, 2019
FROM: Rebecca Albright CEO/LPI

Dear Board,

Please find three enclosures. One is a photocopy from a page of the governing ordinance with regards to this appeal, the Building and Land Use Ordinance. As you can see, the BLUO, which clearly does NOT have a provision for the appeal of a Plumbing Inspector's decision (just a Code Officer).

The second enclosure is State law on the appeal of a plumbing permit decision. There is no avenue for appealing a Local Plumbing Inspectors decision. I called Brent Lawson who is the head of the Plumbing inspectors for the State of Maine this morning. Brent told me that the only plumbing permit that CAN be appealed in the State of Maine is for a septic system which has been issued a STATE variance. This is not the case of Tom True's recent or previous septic system designs.

The last enclosure is an email from Tom True to Brent Lawson confirming that Tom True is completely compliant with his recent septic system.



Rebecca Albright

SECTION 12-13
APPEALS OF DEPARTMENT DECISIONS

A. GENERAL

1. This Section governs the means of appealing a decision made by the Department to the Administrative Hearings Unit. A person aggrieved by a Departmental decision or action relating to implementation of its statutes and rules relating to the subject matter of these Rules may pursue administrative or judicial recourse, in accordance with the Department's Administrative Hearings Regulations 10-144 CMR 1, the Maine Administrative Procedures Act, and Rule 80C of the Maine Rules of Civil Procedure. Appeals of decisions made by local authorities must be made to the relevant municipal officials.
2. A person whose interest in abutting or adjacent property is directly affected by a decision or action of the Department is considered an aggrieved party entitled to bring an action challenging the validity of the decision. Appeals by an aggrieved party must be based on adverse Department decisions affecting said aggrieved party. Appeals contending that a decision by the Department misapplies laws, procedures, or rules; or is based upon a significant factual error to the detriment of the aggrieved party may be filed.

B. PROCEDURE FOR FILING AN APPEAL

Hearing requests must be directed to the Department at Maine Center for Disease Control and Prevention, Division of Environmental Health, 11 State House Station, 286 Water Street, 3rd Floor, Augusta, Maine 04333-0011.

1. The request must state in writing the specific issues being appealed and be filed within 30 days of the Department's decision.
2. Within 14 days of its receipt, the Department representative responsible for administering these Rules will forward the request for an administrative hearing to the Administrative Hearing Unit, to the attention of the Chief Hearings Officer, Office of Administrative Hearings, 11 State House Station, Augusta, Maine 04333-0011.
3. Upon receipt of a request for hearing, the Department will submit to the Administrative Hearings Unit an administrative hearings report that contains the decision on appeal and the administrative record for the Department's decision.
4. The Administrative Hearings Unit at the Office of Administrative Hearings may deny appeals filed after 30 days of a final agency decision.

C. PROCEDURE FOR HEARING

A hearing officer at the Department's Administrative Hearings Unit at the Office of Administrative Hearings will conduct the administrative hearing.

1. (a) The hearing will be conducted pursuant to the Rules of the Office of the Administrative Hearings, as set forth in the Administrative Hearings Manual, and in conformity with the Administrative Procedures Act, 5 M.R.S.A. §§ 8001 – 11008.
2. (b) A notice will inform the appellants of the time, date, and place of the hearing. The hearing will be held in at the Department's office nearest to the party requesting the hearing. The hearing date will be no sooner than 20 days after the date of the notice of the administrative hearing.
3. (c) The hearing officer will issue a written decision of the administrative hearing to all parties.
4. (d) The burden of persuasion for administrative hearings lies with the party who asserts the truth of a claim that such a claim is true. A burden of persuasion is by a preponderance of the evidence, as stated in 10-144 CMR, Chapter 1 (VII)(B).

until the fee(s) have been received by the Town. The application fee(s) shall not be refundable. The fee(s) shall be paid to the Town of Lamoine and shall accrue to the Code Enforcement Fund to be used for the administration and enforcement of town ordinances. A Schedule of Fees is located at the Town Office.

2. **Impact Fee:** In the event that the Planning Board's findings indicate that the proposed development will create a significant burden on existing or future municipal services, the Board may levy a fee to offset the burden of capital improvement. The fee shall be calculated to apply against significant capital improvement costs required of the Town to service the development and its residents (see Section 3 above). The Board may require the applicant to provide accurate estimates of costs required to service the proposed development, and the expected revenue from the development.
3. In addition to the fees set out above, the applicant shall be required to pay the costs of independent evaluations of a proposed development, either as required in this ordinance or as the Planning Board may find such evaluations necessary or desirable in its deliberations. The Planning Board may require such evaluation in all appropriate situations, including those where the applicant has submitted a professional evaluation covering the subject matter. In any case in which a fee for independent evaluation is required the Planning Board will request from the applicant a reasonable additional sum, to be paid at a time determined by the Planning Board; and funds not expended for the specified uses will be returned to the applicant.

E. Certificate of Completion

No structure shall be occupied after its construction, conversion to another use, relocation, or replacement until a certificate of completion is issued by the Code Enforcement Officer. The Code Enforcement Officer shall issue said certificate after proper examination establishes that internal plumbing, septic disposal system, and placement of the structure on the property is in compliance with the provisions of this ordinance and consistent with the plans submitted by the applicant.

SECTION 8. APPEALS AND VARIANCES

A. Variance Appeals:

The Board of Appeals may grant a variance from the strict application of this ordinance provided that the applicant applies for such a variance within 30 days of a building permit decision and that the applicant can demonstrate that the strict application of the ordinance would result in undue hardship. No variance shall be granted which circumvents a prior subdivision ruling by the Planning Board. The fee for such application shall be \$50.00.

B. Administrative Appeals:

The Board of Appeals, upon written application of an aggrieved party within 30 days of a Code Enforcement Officer or Planning Board determination, and after public notice, may hear appeals of such determinations on administrative grounds. Such hearing shall be held in accordance with state laws. Following such hearings, the Board of Appeals may reverse the decision of the Code Enforcement Officer or Planning Board only upon a finding that the decision is clearly



beck albright <lamoineceo@gmail.com>

Fwd: 114 Marlboro Beach Road, Lamoine, ME

1 message

Thomas True <tnt1pe@gmail.com>
To: beck albright <lamoineceo@gmail.com>

Mon, Jul 29, 2019 at 6:17 PM

----- Forwarded message -----

From: **Lawson, Brent** <Brent.Lawson@maine.gov>
Date: Mon, Jul 29, 2019 at 6:13 PM
Subject: Re: 114 Marlboro Beach Road, Lamoine, ME
To: Thomas True <tnt1pe@gmail.com>

Yes that is correct. As long as it is out of the shore land zone all you need to do is record it with the registry of deeds like you have done.

Brent

Get Outlook for iOS

From: Thomas True <tnt1pe@gmail.com>
Sent: Monday, July 29, 2019 8:48:18 AM
To: Lawson, Brent <Brent.Lawson@maine.gov>
Subject: 114 Marlboro Beach Road, Lamoine, ME

EXTERNAL: This email originated from outside of the State of Maine Mail System. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Brent --

Thank you for your time earlier today. Because of the unprecedented amount of scrutiny that this property has received, we wanted to make absolutely certain that I understood our conversation correctly.

It is my understanding that we are now in full compliance as a 3-bedroom system and house even though we have not constructed any physical changes to the absorption field.

We are utilizing Section 9 (Expanded Systems), paragraphs 5 A & B of the Maine Subsurface Wastewater Disposal Rules and we note that:

- Neither our house nor our system(s) is in the Shoreland Zone.
- We have prepared a 3-bedroom replacement system that has been approved by the Local Plumbing Inspector and recorded in Hancock County.
- We have notified the abutters by certified mail of this action.

Did I understand our conversation correctly?

Thank you again for your help in this matter.

Tom

7/30/2019

Gmail - Fwd: 114 Marlboro Beach Road, Lamoine, ME

Tom True, P.E., L.S.
cell: 603-714-5668

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