

To: Lamoine Board of Appeals
From: Michael Jordan, CEO, Town of Lamoine
Re: Benincasa appeal
Date: Oct 29, 2014

5/27/2014 Anthony Benincasa came into my office at the Town Hall and asked several questions about RV's and people staying in them. This wasn't an unusual line of questioning as it happens often in the office.

6/3/2014 Mr. Benincasa again came into my office at the Town Hall and asked the same questions but this time was rude and threatening. He insisted that I go remove the RV from the site. I asked if anyone was living in it and the answer was no.

6/10/2014 Mr. Benincasa again came into my office and showed me pictures he took of the Balach RV. After I left the office, I went to the Balach's and observed the RV but no one around. The pictures supplied by Mr. Benincasa appeared to be taken on Mr. Balach's property. Mr. Benincasa did not supply written permission from Mr. Balach to enter his property. I did not feel comfortable with the source of the pictures, and took no action after leaving the property.

6/17/2014 Mrs. Fenton sent me an E-mail of 4 bullet points with multiple questions. I did not receive this E-mail until 6/24/2014 as it came in after I had left work for the day on 6/17/14.

6/24/2014 I read the E-mail and contacted the Mr. Balach and Ms. McIntyre to ask them when would be a good time to talk to them about the questions in the E-mail. We arranged to meet that evening around 6:30. I arrived at 6:30 and found them sitting at the kitchen table eating supper in the house. We walked around the property and I noticed a pipe running towards the septic tank. I told them that this is a violation and need it removed or bring in HHE-200 (Subsurface Wastewater Form). I then told them that the problem with that route would be that they don't own enough property to have 2 dwellings on it. I gave them until Friday to remove it or I would write up a Notice of Violation. (I inspected 6/27/2014 Friday evening and found no sign of the pipe). I measured the RV to the property lines to make sure it meet all setbacks and it did. I then told them that they didn't have Road Opening permit and that they needed to go see Road

Commissioner Stu Marckoon, to get one. Until this date I had never seen anyone living in the RV.

7/1/2014 I replied to Mrs. Fenton E-mail (enclosed). I asked Mr. Marckoon whether Mr. Balach had submitted an application for a road opening permt. Mr. Marckoon told me that Mr. Balach came in on the 25th with the Road Opening applicatoin and that he would be going over that afternoon to look at the site.

7/24/2014 A complaint from Mr. Benincasa was received by the Town Hall.

7/29/2014 I read the complaint and noted the wording about second curb cuts require Planning Board approval. I mentioned this to Mr. Marckoon. We both had to go read the ordinance because neither of us was aware that this section of the Building and Land Use Ordinance had changed a few years ago. I wrote up a notice of violation. (The Road Commissioner has submitted the documents regarding the road opening permit)

8/3/2014 I went to the Balach/McIntyre property around 7:30 PM and there was no RV even on site so couldn't follow up until a later date as I was going to be in Assessor School from 8/4 thru 8/8.

8/5/2014 While at Assessor School I get a call from Mr. Bearor asking me about the complaint and I told him that I was in Assessor school and that I was going to be there all week so anything I told him would be from memory. We decided that we would get in touch with each other the following week to talk about the complaint.

8/13/2014 Mr. Bearor and I talked on the phone about this complaint. I told him that I believed that the ordinance means an RV requires a building permit if it is to be lived in for 30 consecutive days.

9/9/2014 The Board of Appeals received the appeal from Mr. Bearor

The above is the timeline of my involvement with this matter. As stated in this timeline I have never observed anyone living in the RV. It is difficult to know exactly when Mr. Balach moved in and out of the RV. I do know that on the dates

I went to the property Mr. Balach and Ms. McIntyre were not in the RV and on one of those days the RV wasn't even on site.

It has been a consistent position of mine, and of past code enforcement officers that the intent of the Building and Land Use Ordinance was that to require a building permit, an RV must be occupied for 30-consecutive days. This ordinance interpretation has never been questioned. I would note that the Shoreland Zoning Ordinance does not require a permit for occupancy of less than 120-days in a calendar year. The Shoreland rules and regulations are always more restrictive than the land outside the Shoreland property.

From Lamoine Shoreland Zoning Ordinance:

Section 15: Land Use Standards, E. Temporary Uses, 6. When a recreational vehicle, tent or similar shelter is placed on a site for purposes of occupation for more than one hundred and twenty (120) days within a calendar year, all requirements for residential structures shall be met, including the installation of a subsurface sewage disposal system in compliance with the State of Maine Subsurface Wastewater Disposal Rules unless served by public sewage facilities

Recreational Vehicle as defined in the Build and Land Use Ordinance:

A self-propelled or drawn vehicle or vehicular attachment designed for temporary sleeping or living quarters for one or more persons, which is not a dwelling and which may include a pick-up camper, travel trailer, tent trailer, or motor home.

This definition clearly states that RVs are not dwellings.

Respectfully submitted,

Michael Jordan, Code Enforcement Officer

Lamoine Code Enforcement

From: Lamoine Code Enforcement <ceo@lamoine-me.gov>
Sent: Tuesday, July 01, 2014 11:52 AM
To: 'sandrabfenton@gmail.com'
Subject: Complaint 6-17-2014

Hi Sandra

On Tuesday, 6-24-2014, around 6:30 PM I went to the Balach property to investigate if there were any violations on the property. I will answer your questions and complaints in the order that you have asked them.

1. Does the RV comply with the building codes in Lamoine? I have heard they do not and I would like to know what will be done about it, if it is true.

YES, The RV does comply with the building codes in the Town of Lamoine ordinances. RV's are motor vehicles and need to be treated as such. Since they can be lived in, it does make it bit tougher to enforce building side.

2. Did you go to this property and inspect before the RV was placed there? What about the septic system? Years ago we were going to build of the property adjacent and had it checked for a permit. It did not pass for septic because it was considered wetland. Their land is wetter then ours but they have had ditches dug, How did they get a permit and we did not?

No, I did not inspect before the RV was placed there. RV's are motor vehicles that come and go. I really have no jurisdiction over them and where they can be placed on one's property. I do have the jurisdiction if they sit there for over 30 days and if someone is staying in it for over 30 days. If it meets those 2 items than it must have a plan on how to deal with the septic. It is not going to be there for over 30 days at a time and have someone staying in it for over 30 days. They were given wrong information about hooking up the RV to their existing septic system so I have told them that must be removed and I will be going over 7-1-2014 to verify that they can't hook to their existing system again.

3. What are the property setbacks dividing our two properties, Balach and HG Fenton? The RV seems to be very close to our boundary line. The land around the RV has been manicured with dirt and stones, etc. (making it very lovely for them) ad many trees have been cut out in order to do so (not so good for us). Has that setback ever been checked?

On 6-24-2014 I checked the setbacks and they are well over the 25 feet that they have to be even if this is was a building. They showed me what they believe is the property line and positions of the pins. Cutting trees and placing dirt and stones is the right of everyone to do on their property. I feel that they cut a minimum amount of trees and placed the RV so it isn't an eyesore to the people it the area. Remember they could of parked it on their front land or in the driveway and left it there all summer.

4. How does having an RV in our residential neighborhood effect the value of our property? We are planning to put that property for sale, in the near future. When we walk to that property now, we now see a big white RV. Will the RV devalue the sale of our property? Will our extremely high taxes go down because we now have an RV next to our property?

Since it is not a permanent structure, I'm not sure how it will effect the value of your property. Will placing it in the trees, as they have, or parking it on the front lawn be better for the neighborhood? My guess is placing it in the woods so I would say they are trying to be more neighborly than just parking on the lawn. The RV will not

devalue the property that you will be trying to sell. The devaluing of the property is the fact that it can't have a septic placed on it not that a RV sits next to it 5 months of the year. I am not qualified to answer last question as I'm not the assessing agent for the Town of Lamoine.

If you have any of concerns please call me at 207 610-0884. This is my personal cell number so please leave a message if I don't pick it up.

Michael Jordan