

Pre-Hearing Statement of
Code Enforcement Officer
Rebecca Albright
Private Citizen Moldawer vs. CEO
Lamoine Board of Appeals
8/20/19

I met Tom & Kathy True in early 2018. I have had numerous phone conversations and email interactions with the Trues since.

At no point did I feel that the Trues were anything but transparent and forthcoming with regards to their building project.

The Trues submitted perhaps the most detailed and comprehensive non-commercial application that I have received since I started back in Lamoine in 2017.

The Trues prior applications has their building rotated 90 degrees. With the Trues new (current) orientation, they had to, out of necessity, raise their house so that their footing was above the leech field.

On 4/4/2018 I accepted and approved the Trues building application. In August Mr. True sent me an email and then followed up with a meeting to review and discuss his understanding of building height. Mr. True's calculations clearly show his measurements to final grade.

After the True house went up on 3/1/19, I received several complaints about the building being in excess of the BLUO standards from private citizen Alan Moldawer.

With the help of John Holt, I measured the building height from average rough final grade twice. (At private citizen Moldawer insistence that it be re-measured).

I did not feel the need to measure the building a third time because, A: I was satisfied that it is under the required 35' and, B: additional fill was to be brought in which necessarily lowers the building height.

This is exactly how John Holt and I measured the building. We used 5 (six) foot lengths of pipes which I photographed and introduced into evidence.

Step 1: using the pole and tape measure, we measured from the roof ridge to the bottom of the trim board (28' 9").

Step 2: assuming that the trim board was level all around the structure, we measured from the bottom points (the 6 exterior corners and 2 interior corners) where the main section abutted.

Step 3: We then added the distance from the ridge to the base of the trim board & the distance to compute the height for each of the 8 mentioned points.

Step 4: We averaged the 2 tallest readings (southerly shore side, averaged the 2 shortest readings (northerly, road side) and then averaged the 2 averages to obtain the average height of the building from the rough finished grade.

Please note that Lamoine has three definitions of “building height” in its three most used Ordinances. Please note that the building height definition in the Building and Land Use Ordinance is vague, ambiguous and can be, (and has been), interpreted in more than one way. It badly needs to be tweaked.

Just for the record, I looked at the definition of “Building Height” from the 2015 International Building Code for clarification and it reads, “Building Height- the vertical distance from grade plane to the average height of the highest surface.”

To measure from *original* grade would necessarily require that the Town have a policy in which every application built outside of Shoreland Zone submit a survey of their original grade. The town has no such policy.

The only time that I have ever had to measure a building for suspected violation of the 35’ height restriction was in 1999 at Richard Arnold’s Marlboro house. I measured from averaged final grade back then.

I drove around the Marlboro area back in March of 2019. It is quite clear based on the construction of many homes in the area that the averaged final grade measurement seems to have been the accepted standard. In fact, many homes strike me as taller than the Trues, and they may well be, but no one has complained about them. Yet.

Illustrative Aid - Exhibit A

Definitions From 2009 International Building Code

DEFINITIONS

FURNACE. A vented heating *appliance* designed or arranged to discharge heated air into a *conditioned space* or through a duct or ducts.

GLAZING AREA. The interior surface area of all glazed fenestration, including the area of sash, curbing or other framing elements, that enclose *conditioned space*. Includes the area of glazed fenestration assemblies in walls bounding conditioned *basements*.

GRADE. The finished ground level adjoining the building at all *exterior walls*.

GRADE FLOOR OPENING. A window or other opening located such that the sill height of the opening is not more than 44 inches (1118 mm) above or below the finished ground level adjacent to the opening.

GRADE PIPING. See "Slope."

GRADE PLANE. A reference plane representing the average of the finished ground level adjoining the building at all *exterior walls*. Where the finished ground level slopes away from the *exterior walls*, the reference plane shall be established by the lowest points within the area between the building and the *lot line* or, where the *lot line* is more than 6 ft (1829 mm) from the building between the structure and a point 6 ft (1829 mm) from the building.

GRIDDED WATER DISTRIBUTION SYSTEM. A water distribution system where every water distribution pipe is interconnected so as to provide two or more paths to each fixture supply pipe.

GROSS AREA OF EXTERIOR WALLS. The normal projection of all *exterior walls*, including the area of all windows and doors installed therein.

GROUND-SOURCE HEAT PUMP LOOP SYSTEM. Piping buried in horizontal or vertical excavations or placed in a body of water for the purpose of transporting heat transfer liquid to and from a heat pump. Included in this definition are closed loop systems in which the liquid is recirculated and open loop systems in which the liquid is drawn from a well or other source.

GUARD. A building component or a system of building components located near the open sides of elevated walking surfaces that minimizes the possibility of a fall from the walking surface to the lower level.

HABITABLE SPACE. A space in a building for living, sleeping, eating or cooking. Bathrooms, toilet rooms, closets, halls, storage or utility spaces and similar areas are not considered *habitable spaces*.

HANDRAIL. A horizontal or sloping rail intended for grasping by the hand for guidance or support.

HANGERS. See "Supports."

HAZARDOUS LOCATION. Any location considered to be a fire hazard for flammable vapors, dust, combustible fibers or other highly combustible substances.

HEAT PUMP. An *appliance* having heating or heating/cooling capability and that uses refrigerants to extract heat from air, liquid or other sources.

HEATING DEGREE DAYS (HDD). The sum, on an annual basis, of the difference between 65°F (18°C) and the mean temperature for each day as determined from "NOAA Annual Degree Days to Selected Bases Derived from the 1960-1990 Normals" or other weather data sources acceptable to the code official.

HEIGHT, BUILDING. The vertical distance from *grade plane* to the average height of the highest roof surface.

HEIGHT, STORY. The vertical distance from top to top of two successive tiers of beams or finished floor surfaces; and, for the topmost *story*, from the top of the floor finish to the top of the ceiling joists or, where there is not a ceiling, to the top of the roof rafters.

HIGH-EFFICACY LAMPS. Compact fluorescent lamps, T-8 or smaller diameter linear fluorescent lamps or lamps with a minimum efficacy of:

1. 60 lumens per watt for lamps over 40 watts.
2. 50 lumens per watt for lamps over 15 watts to 40 watts.
3. 40 lumens per watt for lamps 15 watts or less.

HIGH-TEMPERATURE (H.T.) CHIMNEY. A high temperature chimney complying with the requirements of UL 103. A Type H.T. chimney is identifiable by the markings "Type H.T." on each chimney pipe section.

HILL. With respect to topographic wind effects, a land surface characterized by strong relief in any horizontal direction.

HORIZONTAL BRANCH, DRAINAGE. A drain pipe extending laterally from a soil or waste stack or *building drain*, that receives the discharge from one or more *fixture drains*.

HORIZONTAL PIPE. Any pipe or fitting that makes an angle of less than 45 degrees (0.79 rad) with the horizontal.

HOT WATER. Water at a temperature greater than or equal to 110°F (43°C).

HURRICANE-PRONE REGIONS. Areas vulnerable to hurricanes, defined as the U.S. Atlantic Ocean and Gulf of Mexico coasts where the basic wind speed is greater than 90 miles per hour (40 m/s), and Hawaii, Puerto Rico, Guam, Virgin Islands, and America Samoa.

HYDROGEN GENERATING APPLIANCE. A self-contained package or factory-matched packages of integrated systems for generating gaseous hydrogen. Hydrogen generating *appliances* utilize electrolysis, reformation, chemical, or other processes to generate hydrogen.

IGNITION SOURCE. A flame, spark or hot surface capable of igniting flammable vapors or fumes. Such sources include *appliance* burners, burner ignitions and electrical switching devices.

INDIRECT WASTE PIPE. A waste pipe that discharges into the drainage system through an air gap into a trap, fixture or receptor.

INDIVIDUAL SEWAGE DISPOSAL SYSTEM. A system for disposal of sewage by means of a septic tank or mechanical treatment, designed for use apart from a public sewer to serve a single establishment or building.