

APPEAL OF CODE ENFORCEMENT OFFICER DECISION

Alan B. Moldawer
15 Brown Lane
Lamoine, Maine 04605

May 2, 2019

Board of Appeals
Town of Lamoine
Lamoine, Maine 04605

Re: Building Permit for Lot 48

To Whom it May Concern:

The decision of the Code Enforcement Officer not to apply the Building Height standard to the construction of the new True house on Lot 48 and not to find a violation of the building height, as well as other possible violations noted below, is hereby appealed to the Board of Appeals. The Lamoine Building and Land Use Ordinance is unmistakably clear when it defines "Building Height" as the distance from the highest point of the structure to either the average final grade or the average original grade, whichever is greater.

The final grade of the property, post-construction, was substantially raised. The "greater distance", therefore, is from the top of the structure to the original grade. Neighbors estimate (without trespassing) that the final grade was raised at least 10 feet. This is not a matter of "semantics" as has been suggested by the CEO. The Code is clear.

As the CEO said at the April 25, 2019 Board of Selectman meeting (viewed by the undersigned on tape this morning), and as confirmed by John Holt, Planning Board Chair, who was present and also briefly spoke, 10-foot basement walls were built upon a foundation set at the original grade and no inspections of the foundation or property while under construction were made. The house is modular and went up on the basement walls in a matter of a few days.

In addition to the Building Height limitation measured from the top of the structure to the original grade, the house has three (3), not two (2), stories. The only way that it can be argued it has two stories is that fill was brought in to raise the final grade on the north side of the first level walls, leaving the south side of the house open to show its full, three stories.

The applicable Code sections are as follows:

SECTION 6. CONSTRUCTION STANDARDS (p. 13)

A. Height: No principal or accessory conventional structure shall exceed two stories in height nor shall any structure exceed 35 vertical feet (See definition of building height), except

for municipal buildings, steeples, silos, detached barns, water towers or other accessory structures not designed for human habitation.

Section 17. Definitions (p. 56)

B. Definitions of key terms

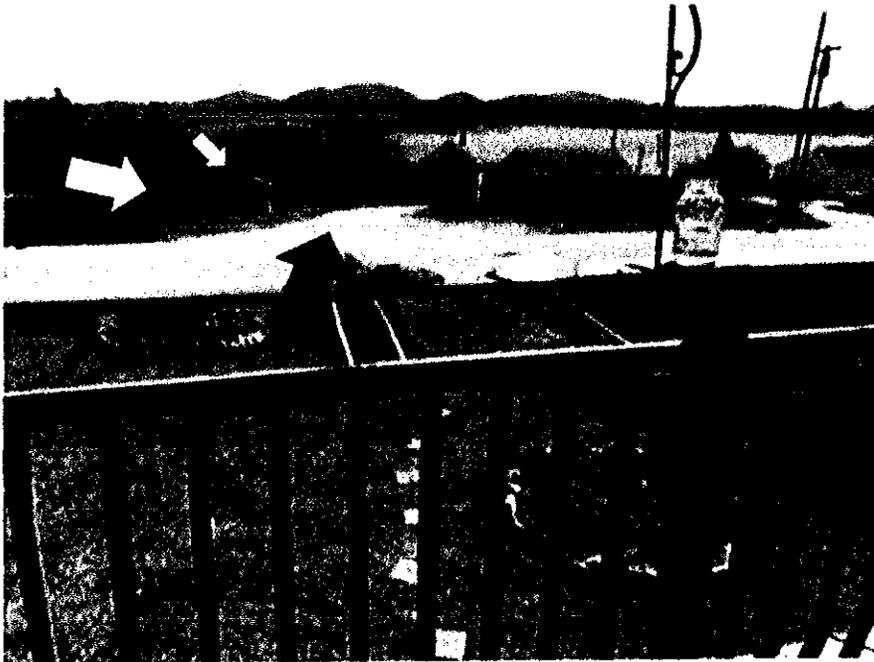
Building Height: The vertical distance between the highest point of the structure and the average final grade around the foundation, or the average grade of the original ground adjoining the building, whichever is greater. (Emphasis on “whichever is greater.”)

As can easily be observed at the site (as well as in photos taken of the site before construction), the finished grade was raised substantially above original grade in order to boost the height of the house. By a straightforward reading of the definition of Building Height, the building height in this case is required to be measured not from the highest point to the “rough finished grade,” as CEO stated in her letter of April 3, 2019, but from the highest point to the “average grade of the original ground.” The difference is significant. Quite clearly, the distance from the highest point to the average original grade is considerably greater than the finished grade and well exceeds an average of 35 feet.

The house should be reduced in height and no occupancy permit should be issued until the violations noted above and below are corrected.



Below are photos of the True lot evidencing the original grade. Clearly, the original grade was substantially below the raised, final grade. The house was built on the spot where the driveway shown below was located. The original grade is at the level of the well feature and goes down from there.



Large white arrow: street sign, not moved.

Small white arrow: well feature, not moved.

Red arrow: where original driveway was and original grade. Now well beneath fill.



In addition, maximum lot coverage of 25%, including structures, driveways and parking lots (Section Part I – General Requirements, Section, I. Lot Standards and Structure Setback Table) has likely been violated, as designed with the addition of parking, a garage and deck on less than about 1/5 of an acre. There are now 4 houses on a total 1.8 acre parcel.

Questions have also been raised with the CEO regarding the adequacy of the septic system and leach field. There has not been an adequate evaluation of the septic system to determine if it is of adequate size for the structure being constructed. The septic system intended to be used was installed years ago for a small, 700-900 sf, two-bedroom, seasonal cottage.

The undersigned requests a hearing before the Board of Appeals.

Thank you.

Respectfully submitted,

Alan B. Moldawer
15 Brown Lane
Lamoine, Maine 04605

Cc: Mr. John Holt, Planning Board Chair
Ms. Rebecca Albright, Code Enforcement Officer