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5/23/19

Date: May 23, 2019

To: Town of Lamoine, Appeals Board and Rebecca Albright (CEO)

From: Rich and Marion Arnold

Re: Kathryn True/ Building Height - Map 16 Lot 48

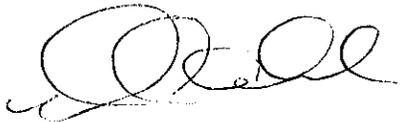
As I stated at the May 20, 2019 Appeals Board Meeting, our property abuts the property in question.

Enclosed are copies of my email correspondence with Rebecca Albright (CEO). As you can read, the CEO and I had a very casual conversation regarding the height of the new structure and the septic field. At no point did she imply, directly or indirectly, that I had the option to make a formal complaint at the town office. Nor was there any sense of her final determination of the case until I received a letter, via email, from her on April 2, 2019.

What is concerning to us is that in the CEO's letter of April 12, 2019 (which can be found in the CEO's file at the town office) she clearly implies that she still harbors substantial confusion regarding the height ordinance and how it impacts the property in question. To use Mr. True's interpretation of the ordinance would clearly permit a property owner to raise the finish grade to any height before commencing building a structure. Clearly that is not the intent of the ordinance.

In conclusion, I was not notified of the final determination until April 2nd and therefore the appeal by Mr. Moldawer is within the 30-day window.

Kind regards,



2026
5/23/19

Re: New structure on Marlboro Beach Rd

From: beck albright (lamoineceo@gmail.com)
To: ra0094@yahoo.com
Date: Tuesday, March 26, 2019, 8:41 PM EDT

Hi Richard, thanks for thanking me. Rebecca

On Tue, Mar 26, 2019, 4:20 PM Richard Arnold <ra0094@yahoo.com> wrote:

Thank you again for your thoughtful and considered response.

Rich Arnold

On Tuesday, March 26, 2019, 2:45:22 PM EDT, beck albright <lamoineceo@gmail.com> wrote:

Hi, Rich, I have thoroughly investigated the septic issue. I have just informed Mr. True, via phone call today that he must have an updated system designed as the original one was for 2 bedrooms. He is in the process of doing this and then state protocol for these situations will ensue, which involves filing a copy of said updated system with the Hancock County registry of Deeds. Thanks, Rebecca

On Tue, Mar 26, 2019 at 2:09 PM Richard Arnold <ra0094@yahoo.com> wrote:

Dear Ms. Albright;

Thank you for your update.

As I stated in my first email, I am a live and let live kind of guy. There have been other "remodeling" done in the area where the owners "colored outside the lines" a bit but in the end the new structures fit within the other all neighborhood and I said nothing. But this structure goes beyond anything that our other neighbors would have dared to even contemplate and that is why I raised this concern with you.

There is one other issue that I think is worth mentioning. I believe the new structure added a septic tank but did not expand the drainage field. I am not trying to question ability of the individual that reviewed the septic plan but it seems to me that to go from a very small cottage that was occupied just a few weeks a year to a very large home that could be a year round abode would require an expansion of the drainage field. The new septic tank and old drainage field is right along my property line. I am very worried that there might be runoff from their septic system and my property could be adversely impacted.

I look forward to hearing your considered opinion on both the height and septic issues of this new structure.

Kind regards,

Rich Arnold

On Tuesday, March 26, 2019, 1:22:17 PM EDT, beck albright <lamoineceo@gmail.com> wrote:

Dear Mr. Arnold, thank you for your email. I am looking in to the matter. I have been to the site and taken measurements. Approximately five feet of fill has been brought in to the site. I will keep you posted. Sincerely, Rebecca Albright, CEO

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On Mon, Mar 25, 2019 at 7:57 AM Town of Lamoine <town@lamoine-me.gov> wrote:

From: Richard Arnold [mailto:ra0094@yahoo.com]
Sent: Saturday, March 23, 2019 10:28 AM
To: town@lamoine-me.gov
Subject: New structure on Marlboro Beach Rd

I would like to raise a concern regarding the new structure that has been put up where the Candy Cottage use to be on Marlboro Beach Rd. It is my understanding that an new structure can only be 35 feet above the original grade of the previous structure. The owner and the contractor clearly are ignoring that restriction. They have built a basement that raises the level of the new structure 6 to 8 feet above the original grade and then they have put a large two story structure on top of that.

As people drive along Marlboro Beach Rd they always have a clear view of Mt Desert Island and Frenchman Bay. It is one of the defining elements of this neighborhood. This new structure is the first one that spoils the aspect of the neighborhood. I understand that the owner wants to have a clear view over their siblings property just in front of theirs but that could have been achieved while still abiding by the zoning restrictions.

I am normally a "live and let live" kind of guy but this is such a flagrant disregard of the letter and spirit of the zoning regulations that something had to be said.

Does the town have the ability to halt the construction until the height can be reviewed?

Thank you for your time,

Rich Arnold
102 Marlboro Beach Rd

7/23/19

Office of Code Enforcement
Rebecca Albright, CEO
606 Douglas Highway
Lamoine, ME 04605
(207) 667-2242
April 2, 2019

RE: Kathryn True/ Building Height

Lot 16 Lot 48-1

To whom it may concern:

I have inspected and measured the (abovementioned) construction on Lupine Lane, Marlboro twice within the past several days.

The construction is a two story modular that has a walk-out basement. This project is on a slope and has involved bringing in a great deal of fill. It appears quite tall. I had to make sure that this structure did NOT violate the Town's 35' height requirement.

The actual height of the new building is 28' 10" from the bottom of the first floor trim board to the top most point of the roof ridge. In other words, if the building was sitting on flat ground (w/o basement), it would be 28' 10" high.

35 feet - 28' 10" leaves 6' 2" of height which remains to be utilized in the project.

The grade of the project varies from 97.5' above sea level to 93.5' above sea level. The grade is on a southern slope, sloping down toward Frenchman's bay. This is a 4 foot differential which spans the width of the house (which is 28'). I have divided the 28 feet of house width in to the 4 foot grade differential and find that (28 divided by 4=7). On average, for every seven feet of vertical distance there is a one foot horizontal grade drop.

The tallest distance from the grade to the roof peak is in the front (south side). This measurement is 38' 8" from ground to the peak of the new house.

Exhibit 4, 13

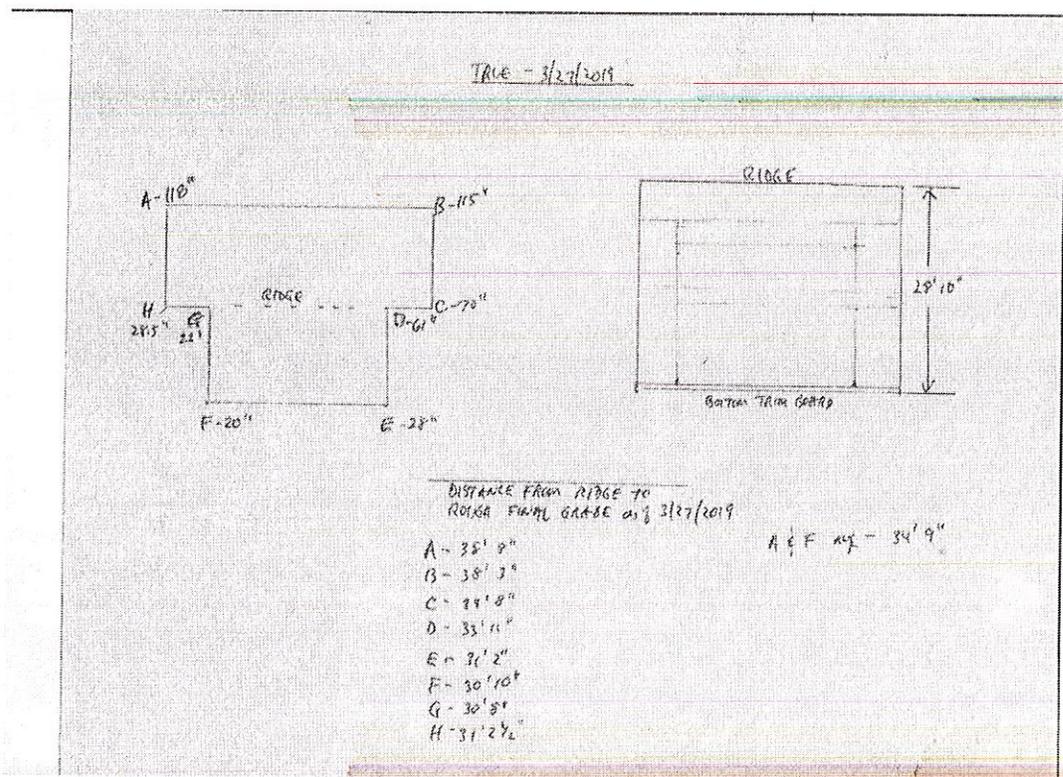
7/23/19

The shortest distance from grade to the roof peak is in the back or north side of the building. This is a 30' 9" distance.

The average final grade from back to front of the building is 34' 9".

BELOW:

Sketch with measurements



It is therefore my opinion that the True house is not in violation of the Lamoine Building and Land Use ordinance. Please refer to the Building and Land Use Ordinance pg. 56 for the definition of "Building height" for further elucidation on this situation.

Respectfully Submitted,

Rebecca Albright, CEO

Town of Lamoine
606 Douglas Highway
Lamoine, Maine 04605
Office of Code Enforcement
Rebecca Albright, CEO/LPI
207 667-2242
4/12/19

To Whom It May Concern:

The problem with the potentially excessive height of the new Tom & Kathryn True residence of Lupine Lane lies ultimately in the interpretation of the key term "Building Height" from the Lamoine Building and Land Use Ordinance. I quote from the Ordinance,

"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."

The submitted height calculation calculates the height of the average final grade.
Mr. True interpreted "whichever is greater" to refer to/modify the word "elevation", meaning that if, in his situation, the average final grade of his project is a larger number than the number produced by the elevation of the average original grade, the greater number applies. *The elevation of the average final grade is greater than the original grade.*

In his case, the greater number is derived from a measurement of the average final grade and the highpoint of his structure. *The ordinance is silent as to "whichever is greater" refers to one interpretation.*

Other people have interpreted this definition in a much different way. They believe that the phrase, "whichever is greater" is intended to modify the phrase "vertical distance".

Herein lies the problem. Tom True actually included a highlighted copy of the building definition from the BLUO to justify the building of his house as it sits, with a 9'7" basement and a ~~random~~ amount of fill brought in.

A final note for the record, the height of the "naked" building is 28' 10", and the average of the filled grade is (slightly) under 34'.

Rebecca Albright, CEO
which is greater refers to either the elevation of the original or final grade or that it refers to the vertical distance between grades