From: Jonathan Zdziarski <jzdziarski@icloud.com>
Sent: Sunday, July 19, 2020 8:59 PM
To: Town of Lamoine
Subject: True v. CEO

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Hi Stu,

I've done a little more reading of the building code and certificate of occupancy, to which the Arnolds kept a copy from 1998. I want to bring a few things to the board of appeals' attention WRT True v. CEO. Thank you for bearing with me, as it's a bit of a long email.

We have the signed Certificate of Occupancy from 1998 for the permit cited, with the phrasing "Having found the work done under the Building Permit to have been performed in substantial compliance with the provisions of the Lamoine Building and Land Use Ordinance"... it is very clear from this CoO that the CEO inspected not only the plans, but inspected the actual work on-site, where she would have seen the attic regardless of what copy of
the plans she had (I've heard some plans have apparently gone missing from the town offices, so
it's difficult to determine exactly what was on file at the time). The CEO's determination in 1998 was that there was no fault with the actual construction of the building - so the plans are irrelevant. The structure was inspected on-site. We know this because the ordinance mandates
this stating "the Building Inspector ... shall inspect ... all the buildings for the purpose of administering and enforcing the provisions of this code..."; this was not optional and was the responsibility of the town officer and it has her signature by it.

To add to this, the section in the ordinance titled Administrative Appeals states "The Board of Appeals, upon written application of an aggrieved party within 30 days of a Code Enforcement Officer or Planning Board determination" (the original version I have states Building Inspector in
place of CEO - but the role is essentially the same). In either case, the section states that an aggrieved party has 30 days to file an appeal of a determination, however the term aggrieved party is defined specifically in the ordinance as "a person whose land is directly or indirectly affected by the grant or denial of a permit or variance under an ordinance", it is very clear, then, that the intention of the appeals process is to allow an appeal within 30 days of the issuance of a permit or variance to which the party is affected.

In the case of True v. CEO, this 30 day period was the date the building permit and/or certificate
of occupancy was granted in 1998 and NOT the date of any complaint. Because of this, I argue
that in True v. CEO, Mr. True does not qualify as an aggrieved party, because they were not directly or indirectly affected by the grant or denial of a permit or variance within 30 days of issuance, which is the clear intent of this process. The determination that the appeals process speaks of is clearly for the date of the permit or variance, which was issued in 1998.

To summarize, the CEO making a determination - at my request - about a complaint does not

qualify for appeal, as it was not within 30 days of the grant or denial of the issuance of the permit, or even certificate of occupancy, for this structure. Filing a complaint about a code violation, where no permit was issued (nor was necessary) does not provide sufficient grounds for an appeal because the party does not fit the definition of an aggrieved party. Had this property just been built, and a party were to file a complaint within 30 days of its permitted occupancy, only then would the party qualify as an aggrieved party and the complaint and appeal
would be valid. A party does not qualify as an aggrieved party 23 years after the fact. The board
of appeals should recognize this to avoid allowing our town resources to continue to be used as a
means of retribution against neighbors. It's in fact, a complete abuse of the system that the BOA
is within their rights (and arguably their responsibility) to stop.

Lastly, without acknowledging any right of the board of appeals to hear True v. CEO, I'd like to note the ordinance cited in the complaint. Specifically, "No principal or accessory conventional structure shall exceed two stories in height"; note here that it does not say "two stories", but "two stories in height". There is a difference, and while the CEO has already determined (in 1998, when it mattered - as well as upon my request) that this house has only two stories, it's important to point out that this property does not exceed two stories in height, regardless of whether the finished attic existed or not. The attic does not add any extra height to the house - it
does not alter the roofline, which is consistent with that of a two story open concept home. I found some old plans that showed two windows in the space. At some point, the builder chose a
dormer. It's irrelevant. Attics have windows. Some attics have dormers. In either case, the attic in
this house did not fundamentally change the roofline or height of this house. Based on my interpretation of the plans, had the attic not existed, the exterior of the house would be the exact
same height and therefore still fits the definition of "two stories in height". I could build a dozen 2-foot stories in this house, and it would still fit the definition of "two stories in height".

I kindly ask that the board of appeals throw out this complaint, as the complaint is both without merit, and invalid as the complainant does not qualify as an aggrieved party per the town's accepted definition.

Jonathan