

BEFORE THE SKAGIT COUNTY HEARING EXAMINER

SUSAN HARRIS,)	
)	PL06-0052
Appellant,)	
)	FINDINGS OF FACT,
v.)	CONCLUSIONS OF LAW,
)	AND DECISION
SKAGIT COUNTY,)	
)	
Respondent.)	
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This matter came on regularly for hearing on March 22, 2006, before the Skagit County Hearing Examiner in the Commissioner’s Hearing Room, 1800 Continental Place, Mount Vernon, Washington.

The case involved the appeal of the decision of the Skagit County Building Official revoking a building permit relating to property at 10501 Chuckanut Drive.

Susan Harris represented herself. William Dowe, Building Official, represented the Skagit County Department of Planning and Development Services.

Testimony was taken. Exhibits were admitted. Argument was made. On the record created, the Examiner enters the following:

FINDINGS OF FACT

1. Susan Harris (appellant) is the owner of property at 10501 Chuckanut Drive. There is a house on the lot. When she purchased the property, the site had an active building permit allowing enclosure of an existing carport – BP02-1290 (issued May 5, 2003).

2. On June 30, 2005, the appellant obtained a demolition permit – BP05-0794 – to demolish the carport that was to be enclosed under permit BP02-1290. At that time she said she would submit revisions for a building project.

3. Appellant asserts that she sent plans to the County in July 2005, but there is nothing in the record showing that such plans, if submitted, were in fact received and accepted.

4. On October 3, 2005, the County’s Building Inspector observed that the carport had been demolished and the construction of a garage had occurred at the site. The construction did not match the permitted project for enclosing the carport. The County

asserts that revised plans reflecting the actual construction project had not been submitted as of October.

5. On October 31, 2005, the Code Enforcement Officer issued a Notice of Violation concerning the construction that had gone forward and the lack of plans reflecting the actual construction.

6. On November 16, 2005, appellant submitted application documents for remodeling the existing home. These were accepted as a revision to BP02-1290 but were not then approved.

7. On December 8, 2005, the County acknowledged receipt of the revised plans and site drawing for revising BP02-1290. The County then took the position that the project involved the expansion of a non-conforming use requiring compliance with zoning setbacks and with flood protection requirements.

8. The Code Enforcement officer conducted a site visit on January 4, 2006, and noted that construction had continued after the Notice of Violation was issued. There is no evidence to the contrary.

9. On January 13, 2006, the Building Official issued a Notice and Order to Abate, revoking BP02-1290. The Notice and Order to Abate cited three aspects to the violation:

- (1) Construction without the required permits.
- (2) Failure to submit plans by the November 14, 2005 deadline imposed by the October 31 Notice of Violation.
- (3) Failure to cease work as directed in the Notice of Violation.

10. The Notice ordered that the necessary plans, information and fees be submitted by February 1, 2006, or that the unpermitted work be demolished. As of February 1, the corrective action specified had not been accomplished.

11. By the date of revocation, building on the site had gone beyond demolishing or enclosing a carport. A completely new garage had been built and integrated into the main house. There had been the addition of a second story area and resultant significant revision of the roofline.

12. As of the time the permit was revoked, the County had never approved the project that the appellant has been building.

13. On January 10, 2006, the Plans Examiner assigned to the BP01-1290 revision wrote a detailed letter to the appellant setting forth the various items that the needed to be addressed in order to complete plan review. The letter noted that the County believed the garage had been enlarged and that this constituted expansion of a non-conforming use.

The letter also went into considerable detail on construction plan items that were either incomplete or needed to be revised.

14. The instant appeal was filed on January 23, 2006. In her appeal, Ms. Harris answered the question “what is sought after decision?” as follows: “Let me finish my home – Letter of apology – Financial compensation.”

15. Prior to the permit revocation, the appellant resisted the need for land use (zoning) approval, insisting that the footprint of the overall structure has not been enlarged. There appears to be no question, however, that the volume of the structure overall has increased with the second story addition. At the time of hearing, the land use issues did not appear to have been resolved.

16. The appellant’s appeal is apparently based on the idea that the County has delayed her project without justification. She asserts that she responded to all requests for plans and information. She feels particularly aggrieved by the insertion of land use issues into the review process late in the game. She also asserts that the County did not properly review the permit issued to her predecessor and she is now being victimized by prior County lapses.

17. Any finding herein which may be deemed a conclusion is hereby adopted as such.

CONCLUSIONS OF LAW

1. The issue presented is a narrow one. Was BP02-1290 lawfully revoked?
2. It is axiomatic that construction may not lawfully proceed without a valid building permit authorizing the work that is being performed.
3. In this case, there was an active building permit, but it was limited in scope to the enclosure of a carport. The appellant made efforts to get that permit revised so that it would cover the broader and different project she was actually pursuing, but the critical point is that she never received County approval of any such revision.
4. There is absolutely no question that she proceeded with construction without the appropriate permit approval to carry it out. It is true that she was making efforts to get that approval, but she did not have it. Building in anticipation of approval in the future is not lawful. It is really as simple as that.
5. Permit revocation is a sanction within the power of the issuing agency when the conditions or limits of a permit are not observed. The appellant’s activities here clearly exceeded the scope of the existing building permit. To that extent, the activities were construction without a permit. In addition, there appears to be no contest over the fact that appellant failed to cease work after receiving the Notice of Violation.

6. The Building Official was within his authority to order corrective action which he did by requiring that all necessary plans be submitted by February 1, 2006.

7. The appellant did not prove that the County wrongfully withheld approval of this project. At most it was shown that after the passage of several months of process, land use issues came up over which there is a genuine disagreement. The reason that these issues arose at all is because of the extent of the building that went forward without any prior permit approval

8. The County has remained open to the idea of reviving the building permit and proceeding with the project when the appellant's application materials are such as qualify her proposal for approval. Thus, in practical terms, the permit revocation is not necessarily the end of the road in this case.

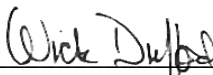
9. The appellant has not shown that she is entitled to the relief she has sought. Even if she had shown the revocation to be in error, the Examiner is without power to award her financial relief.

10. Any conclusion herein which may be deemed a finding is hereby adopted as such.

DECISION

The appeal is denied. The County's decision to revoke BP02-1290 is affirmed.

SO ORDERED this 25th day of April, 2006



Wick Dufford, Hearing Examiner

RECONSIDERATION/APPEAL

As provided in SCC 14.06.180, a request for reconsideration may be filed with Planning and Development Services within 10 days after the date of this decision. As provided in SCC 14.06.120(9), the decision may be appealed to the Board of County Commissioners by filing a written Notice of Appeal with Planning and Development Services within 14 days after the date of the decision, or decision on reconsideration, if applicable.