

CHELAN COUNTY

DEPARTMENT OF HEARING EXAMINER

316 WASHINGTON STREET, SUITE 301
WENATCHEE, WASHINGTON 98801

BEFORE THE CHELAN COUNTY HEARING EXAMINER

IN THE MATTER OF:)	FINDINGS OF FACT,
AA 2023-139)	CONCLUSIONS OF LAW AND
Lohr-Johnson)	DECISION ON
)	ADMINISTRATIVE APPEAL

I. FINDINGS OF FACT

1. A request for an Administrative Appeal was submitted to appeal the denial of a permit renewal extension for a short-term rental.
2. The Appellant is Jason Lohr-Johnson.
3. The project location is 22929 Maple Dr., Lake Wenatchee, WA 98826. The parcel number is 27-17-18-925-200. The legal description is WHISPERING PINES LOT 41 1.0800 ACRES. The zoning district is Rural Residential Recreational (RRR).
4. The subject property had a provisional permit to operate in 2021/2022. The Applicant had not been issued a finalized permit that would be eligible for renewal.
5. Nevertheless, the Applicant submitted a Short-Term Rental Renewal Application dated December 28, 2021 for an Existing Nonconforming Short Term Rental Permit.
6. On the initial STR application the Applicant acknowledged and signed several items of which the following were part:
 - 6.1. The seventh acknowledgement: I acknowledge and certify that this short-term rental location is or will be within the set time constraints, compliant with all items in subsection 3 of Chelan County Code 11.88.290 and will obtain Fire and Life Safety inspection(s) as required.
 - 6.2. The twelfth acknowledgement: I certify that I am the property owner, or authorized agent of the property owner, and I have familiarized myself the rules and regulations of Chelan County with respect to making this application.
 - 6.3. The fourteenth acknowledgement: I shall comply with Chelan County Code, Section 11.88.290 and all applicable building, sewage, and fire codes (as amended).

- 6.4. The fifteenth acknowledgement: I acknowledge and agree that my short-term rental permit expires each year on December 31 and that I am required to apply for renewal no later than October 31 of the preceding year.
- 6.5. The sixteenth acknowledgement: I acknowledge and understand that any violation of Chelan County building or zoning regulations, as well as any violation of any provisions of a short-term rental permit is subject to enforcement pursuant to CCC, Title 16. Enforcement actions may be brought against the owner of the vacation rental home for the conduct constituting the violation.
7. The property was neither in compliance at the time of the submission of the untimely application, nor was it in compliance by the December 31, 2022 deadline (in order to maintain the Existing Nonconforming status), to receive a finalized permit, and be eligible to renew for permit year 2023.
8. Per Chelan County Code 11.88.290 (2)(E)(i)(c)- That the short-term rental meets all requirements of subsection (3) of this section within one year of the effective date of the ordinance codified in this section; provided, that legally required health and safety provisions within subsection (3) of this section including garbage, consumer safety, fire safety and outdoor burning, and property management plan communications provisions are met within ninety days of the effective date of the ordinance codified in this section, except that in the Manson urban growth area, all provisions consistent with Section 11.23.040 as it existed on August 25, 2020, shall be met on the effective date of the ordinance codified in this section;
9. Building Permit # 060505 issued in 2006 shows that the structure was permitted as a garage with second story, not as habitable space.
10. A June 22, 2020 email from Applicant to Planning Staff with the subject "Lohr-Johnson cabin permit designation change" helps clarify that the Applicant was aware the structure was not properly permitted for the build that occurred and was already looking into change of use permitting.
11. On March 8, 2023, the Applicant was denied the Existing Nonconforming Short Term rental permit for violation of 11.88.290.
12. On March 16, 2023, the Applicant was denied for a Short Term Rental Renewal Extension Request.
13. On March 16, 2023, the administrative appeal (AA 23-139) was filed with Chelan County Community Development by the applicant via email. On March 17, 2023, the Applicant paid fees and brought a copy of the appeal document into Community Development office.
14. After due legal notice, an open record public hearing was held via Zoom video conference on April 5, 2023.
15. Admitted into the record were the following:
 - 15.1 Ex. A Denial of Short Term Rental Permit.
 - 15.2 Ex. B Denial of Renewal Extension Request

- 15.3 Ex. C AA 23-139 Application Materials
- 15.4 Ex. D Timeline Prepared by Community Development staff with supporting emails and documentation
- 15.5 Ex. E Staff Report.

- 16. Appearing and testifying was Jason Lohr-Johnson. Mr. Lohr-Johnson testified that he was the property owner and the Applicant. He agrees that they never had an original permit because they never had a Certificate of Occupancy. He testified that he did not know the time limits for application submission and renewal application submission because of "ignorance on my part." However, he stated that they have been in good faith attempting to comply with the regulations and that he now has a Certificate of Occupancy.
- 17. However, the Hearing Examiner finds that the Applicant never had a final STR permit, and therefore could not have a proper renewal of this nonexistent permit.
- 18. The Applicant simply failed to comply with all the requirements of CCC 11.88.290 to obtain a final permit.
- 19. Any Conclusion of Law that is more correctly a Finding of Fact is incorporated herein as such by this reference.

II. CONCLUSIONS OF LAW

- 1. The Hearing Examiner has been granted authority to render this Decision.
- 2. Chelan County Code Section 14.12.010: Administrative appeals:
 - (1) An administrative appeal to the hearing examiner shall be filed with the department within ten working days of the issuance of the decision appealed, together with the applicable appeal fee.
 - (2) The notice of appeal shall contain a concise statement identifying:
 - (A) The decision being appealed;
 - (B) The name and address of the appellant and his/her interest(s) in the application or proposed development;
 - (C) The specific reasons why the appellant believes the decision to be erroneous, including identification of each finding of fact, each conclusion, and each condition or action ordered which the appellant alleges is erroneous. The appellant shall have the burden of proving the decision is erroneous;
 - (D) The specific relief sought by the appellant;
 - (E) The appeal fee.
- 3. Because the Applicant never had a final, permanent STR permit, the Appellant was ineligible to have this nonexistent permit renewed.
- 4. The Appellant failed to comply with all of the requirements set forth within CCC 11.88.290 to obtain a final STR permit.
- 5. Any Finding of Fact that is more correctly a Conclusion of Law is incorporated herein as such by this reference.

III. DECISION

WHEREFORE, based upon the above Findings of Fact and Conclusions of Law, the Hearing Examiner finds that the denial for the existing non-conforming Short Term Rental permit dated

March 8, 2023 and the denial for the Short Term Rental Renewal Extension Request dated March 16, 2023 are hereby **AFFIRMED**.

Dated this 10 day of April, 2022.

CHELAN COUNTY HEARING EXAMINER



Andrew L. Kottkamp

This decision is subject to appeal pursuant to the Chelan County Code. Appeals must be timely filed. Anyone considering an appeal of this decision should seek immediate legal advice.