

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 2023-208 |) | CONCLUSIONS OF LAW AND |
| Fischer |) | DECISION ON |
| |) | ADMINISTRATIVE APPEAL |

I. FINDINGS OF FACT

1. An application for an Administrative Appeal with fees was submitted to appeal the Notice and Order to Abate Violations issued on April 14, 2023 for Code Enforcement file # CE 23-0046. The appeal was submitted on the basis that the appellant believes that after-the-fact building permits are not needed for the pole building/shop and stripping the ADU since both structures have been documented by the County since 2002 and 1983 respectively.
2. The property location is 2622 Cottonwood Lane, Leavenworth, WA 98826. The Parcel No. is 27-18-31-520-110 and the legal description is CHIWAWA RIVER PINES NO 6 LOT 22.
3. The Appellant/owners are Robert and Rachel Fischer.
4. Existing Land Use & Site History: BP-230143 - Remodel to Existing SFR to Include: 2 Bdrm 2 Bath; 448 Sq Ft Feet Basement; 448 Sq Ft Main Floor; 448 Sq Ft 2nd Floor; 102 Sq Ft Covered Porches/Decks. Issued on 6/1/2023. ACC-230040 – PW Access to Chelan County Road, approved on 3/15/2023. CR 23-0046 - A code enforcement complaint was submitted by County staff on 4/12/2023, which was converted into a code enforcement violation (CE 23-0046) on 4/14/2023, and then the resulting Notice and Order was issued on 4/14/2023 by County Code Enforcement.
5. The Appellant currently owns and resides at 2622 Cottonwood Lane in Leavenworth, WA. During review of BP-230143, which was for a proposed remodel to the existing residence, County staff notified Mr. Fischer that he had two unpermitted structures on his property, which included an Accessory Dwelling Unit (ADU) and a 384 sq.ft. shop on skids that were located on the southern end of the subject property. County staff told Mr. Fischer that he would either need to remove these structures from the property completely or that they would need to be brought into compliance through the after-the-fact building permit process. Mr. Fischer believes that these two structures are legal since the County has documented both structures since 2002 and 1983 respectively. Since Mr. Fischer neither removed the structures or brought them into compliance by applying for after-the-fact building permits, the County initiated code enforcement on the property due to illegal, unpermitted structures.

6. On March 14, 2023, a building permit application (BP-230143) for a remodel to existing SFR to include: 2 bdrm 2 bath; 448 sq ft feet basement; 448 sq ft main floor; 448 sq ft 2nd floor; 102 sq ft covered porches/decks, located at 2622 Cottonwood Lane in Leavenworth, was submitted to Chelan County for review and processing.
7. During review of this building permit application, County staff found that the site plan submitted showed there were two (2) unpermitted structures on the subject property, which included an ADU and a 384 sq.ft. shop on skids.
 - 7.1. According to Chelan County building permit records, no building permit applications for these structures have been submitted, therefore these structures are considered unpermitted and illegal.
 - 7.2. According to Chelan County Assessor records, the structure which is currently an ADU has been in existence since 1983 and the shop on skids has been in existence since 2002.
8. On April 12, 2023, County staff notified the Appellant that during review of BP-230143, it was discovered that the ADU and the 384 sq.ft. shop on skids were both unpermitted, and therefore, Chelan County Code Enforcement was notified of the situation.
9. On April 12, 2023, County staff requested code enforcement on the subject property based on the fact that the subject property had an unpermitted ADU and 384 sq.ft. shop on skids.
10. On April 14, 2023, a Chelan County Code Enforcement Officer issued a Notice an Order (CE 23-0046) to the appellant stating that the subject property was found in violation of the Chelan County ordinance(s), regulation(s), and/or resolution(s) as follows:
 - 10.1. WA State Residential Code Section RI 105.1 Required. Any owner or owner's authorized agent who intends to construct ,enlarge, alter, repair, move, demolish or change the occupancy of a building or structure, or erect, install, enlarge, alter, repair, remove, convert or replace any electrical, gas, mechanical or plumbing system, the installation of which is regulated by this code or to cause to be performed, shall first make application to the building official and obtain the required permit.
 - 10.2. The site plan (for BP-230143) depicted two illegal, un-permitted structures. The structures are an unpermitted Accessory Dwelling Unit (ADU) and a 384 sq ft shop (on skids) located on the southern end of the parcel. If you wish to keep the structures, it must be permitted. Regardless, if you move forward with your current applications these structures need to be removed or permitted.
 - 10.3. Corrective Action Required: In order to bring your property into compliance, and to avoid further enforcement action in reference to this violation, you must accomplish the following by May 1st, 2023.
 - 10.3.1. Contact Chelan County Community Development and submit for and obtain an "After-the-Fact" residential building permit for the unpermitted structures.
 - 10.3.2. If option 1, cannot be completed. You must remove the structure completely from the property.
 - 10.3.3. Contact Code Enforcement Deputy Wenzel once one of the above options are completed. Failure to Contact Deputy Wenzel by May 1st, 2023 may subject you to civil penalties.

11. APPEAL PROCEDURE - Chelan County Code Section 14.12.010: Administrative appeals.
 - 11.1 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.
 - 11.2 The notice of appeal shall contain a concise statement identifying:
 - 11.2.1 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.
12. After due legal notice, an open record public hearing was held via Zoom video conference on June 21, 2023.
13. Admitted into the record were the following exhibits:
 - 13.1 Ex. A Administrative Appeal;
 - 13.2 Ex. B Notice and Order;
 - 13.3 Ex. C Code Enforcement Request;
 - 13.4 Ex. D Email correspondence between County staff and Appellant;
 - 13.5 Ex. E Staff Report;
 - 13.6 Ex. F Written statement of Appellant.
14. Appearing at the hearing on behalf of the Appellant were Robert and Rachel Fischer. Mr. Fischer's testimony basically summarized Ex. F. The shop has been on the property since 1983 and does have a permit number. Staff indicated that this would have been a permitted shop and not an accessory dwelling unit. The pole building on skids has been permitted since 2002. The Appellants do not believe that they should be required to get an after the fact permit for the shop with a bedroom and bathroom, and the pole building on skids, because of the fact the buildings have been in existence for so long and that Chelan County has recognized their existence by taxing the property. They also feel that because the County has known of their existence and did not take any legal action to require a permit and also because of the expense of the after the fact permit. They stated that the shop with the bedroom and bathroom is not used for residential purposes. It is not a dwelling because there is no kitchen facility in the property. They also complained that the County would not work with them, but instead simply filed a Notice and Order to Abate Violation.
15. The County indicated that they are willing to work with the Appellants to bring the property into compliance with the proper permits or after the fact permits.
16. No permits have been issued for either the shop/ bedroom/bathroom or the pole building. The fact that the building that was permitted as a "shop" now has a bedroom and bathroom, requires additional permitting by Chelan County.
17. The pole building on skids is not exempt from a permit based upon its size. It needs to be located on a foundation.

18. The Hearing Examiner finds that the Appellant did not provide sufficient evidence demonstrating that the Notice and Order to Abate Violations issued April 14, 2023, was issued in error.
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

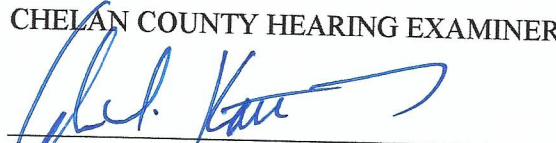
1. The Hearing Examiner has been granted authority to render this Decision.
2. The Notice and Order to Abate Violations issued by Chelan County on April 14, 2023 regarding property located at 2622 Cottonwood Lane, Leavenworth, WA 98826, was properly issued.
36. Any Finding of Fact that is more correctly 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 Notice and Order of CE 23- 0046 be upheld for not obtaining the needed permits for two structures on his property.

Dated this 26 day of June, 2023.

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.