October 4, 2017

OFFICE OF THE HEARING EXAMINER
KING COUNTY, WASHINGTON

King County Courthouse
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REPORT AND DECISION

SUBJECT: Department of Permitting and Environmental Review file no. **ENFR160265**

HARRY AND NORMA ALGUARD
Code Enforcement Appeal

Appellants: **Harry and Norma Alguard**
PO Box 2281
Renton, WA 98056
Telephone: (425) 228-2639
Email: hcalguard@aol.com

King County: Department of Permitting and Environmental Review
represented by **Jeri Breazeal**
35030 SE Douglas Street Suite 210
Snoqualmie, WA 98065
Telephone: (206) 477-0294
Email: jeri.breazeal@kingcounty.gov

SUMMARY OF RECOMMENDATIONS/DECISION:

Department's Preliminary Recommendation:	Deny appeal
Department's Final Recommendation:	Deny appeal
Examiner's Decision:	Deny appeal

EXAMINER PROCEEDINGS:

Hearing Opened:	September 26, 2017
Hearing Closed:	September 26, 2017

Participants at the public hearing and the exhibits offered and entered are listed in the attached minutes. A verbatim recording of the hearing is available in the Hearing Examiner's Office.

FINDINGS:

1. Harry and Norma Alguard are record owners of Parcel no. 1723069021 located in the RA-5 zone in unincorporated King County near Renton, the address of which is 19731 SE 142nd Street (Property).

2. In response to a complaint that the detached garage on the Property had been partially converted to a dwelling unit, the Department of Permitting and Environmental Review (DPER) opened this case. Its review of Assessor's records and its inspection of the Property confirmed that approximately half of the structure had been converted to a dwelling unit. Exhibits 1, 5, and 6.

3. The Alguards submitted a pre-application packet on May 24, 2016 and attended a pre-application meeting with DPER on June 30, 2016. The Alguards then applied for Health Department approval, which the Health Department denied on January 5, 2017. Exhibit 7. The Health Department is requiring a separate septic system for the detached accessory dwelling unit. Exhibit 1.

4. On July 18, 2017, DPER issued a Notice and Order to the Alguards alleging conversion of a garage/shop into an accessory dwelling unit (ADU) without the required permits, inspections, and approvals in violation of KCC 21A.08.030.B.7 and Sections 105.1 and 114.1 of International Building Code (IBC). Exhibit 2.

5. DPER acknowledges that the Alguards did not create the accessory dwelling unit; a prior owner did.

6. The Alguards (Appellants) timely appealed the Notice and Order. Exhibit 3. In their appeal, they do not contest the alleged violation but ask for more time to correct the violation.

7. On August 25, 2017, Appellants submitted an application to the Health Department. Exhibit 9. However, they apparently did not understand that the Health Department does not review an application for a new septic system unless it has received a critical areas designation.

8. Thus, the next step for Appellants to take in resolving the violation is to submit an application for a critical areas designation (CAD). Officer Breazeal offered to provide Appellants the appropriate application following the hearing in this matter.

9. Officer Breazeal further advised that Appellants may submit a CAD application without an accompanying critical areas report from a qualified consultant in order to get their application in the "review queue." However, DPER cannot render a critical areas determination until it has received and reviewed such a report. Appellant's septic designer, Huard Septic Design, may be able to offer a recommendation on an appropriate critical areas consultant.

CONCLUSIONS:

1. DPER has shown by a preponderance of the evidence that Appellants converted a garage/shop into an accessory dwelling unit without the required permits in violation of the code provisions referenced in the Notice and Order.

2. Appellants have demonstrated good faith efforts to correct the violation.

DECISION:

1. The appeal is **DENIED**.

2. No penalties shall be assessed against the Appellant or the subject property if the following actions are completed **by the deadlines set forth below**:

   A. Apply for and obtain the required permits, inspections, and approvals with complete application to be submitted by the following schedule:

      i. Submit a Critical Areas Designation (CAD) application to DPER **by November 7, 2017**.

      ii. Submit a complete application to the Health Department for approval **within 30 days of CAD issuance** and provide a copy to DPER.

      iii. Submit a complete building permit application **within 45 days of the Health Department approval**.

      NOTE: Application for a permit does not ensure that a permit will be issued. An applicant should also be aware that permit fees and/or site conditions and/or repair expenses may make the application cost prohibitive. The only alternative may be to demolish the non-permitted construction.

      iv. Meet all deadlines for requested information associated with the permit(s) and pick up the permit(s) within the required deadlines. Request a building inspection **at time of permit issuance**, make any required corrections, and obtain final approval for occupancy **within one year of permit issuance**.

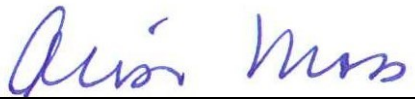
      v. If the permit application or any required approvals including but not limited to Health Department approval is denied, apply for an obtain a demolition permit to remove the new construction **within 30 days of the final denial of any of the permit approvals**. Demolition must be completed **within 60 days of permit issuance** even though a demolition permit is good for one year.

   OR

   B. If an application to permit the accessory dwelling unit is not pursued, apply for a permit to remove the new construction and restore the structure to the approved

use **by November 7, 2017** and obtain the permit. Work must be completed **within 60 days of permit issuance** even though a demolition permit is good for one year.

ORDERED October 4, 2017.



Alison Moss
Hearing Examiner pro tem

NOTICE OF RIGHT TO APPEAL

King County Code 20.22.040 directs the Examiner to make the County's final decision for this type of case. This decision shall be final and conclusive unless proceedings for review of the decision are timely and properly commenced in superior court. Appeals are governed by the Land Use Petition Act, Chapter 36.70C RCW.

MINUTES OF THE SEPTEMBER 26, 2017, HEARING IN THE APPEAL OF HARRY AND NORMA ALGUARD, DEPARTMENT OF PERMITTING AND ENVIRONMENTAL REVIEW FILE NO. ENFR160265

Alison Moss was the Hearing Examiner in this matter. Participating in the hearing were Jeri Breazeal, Harry Alguard, and Norma Alguard.

The following exhibits were offered and entered into the record:

Exhibit no. 1	Department of Permitting and Environmental Review staff report to the Hearing Examiner for file no. ENFR160265
Exhibit no. 2	Notice and order, issued July 18, 2017
Exhibit no. 3	Notice and statement of appeal, received August 9, 2017
Exhibit no. 4	Codes cited in the notice and order
Exhibit no. 5	Photographs of subject property, dated May 3, 2016
Exhibit no. 6	Residential permanent record cart of subject property
Exhibit no. 7	Application for Health Department approval of building permit, received December 7, 2016
Exhibit no. 8	Email from DPER to Health Department with Health Department denial, dated May 10, 2017
Exhibit no. 9	Appellant's design documentation

AM/ed

October 4, 2017

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CERTIFICATE OF SERVICE

SUBJECT: Department of Permitting and Environmental Review file no. **ENFR160265**

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Code Enforcement Appeal

I, Elizabeth Dop, certify under penalty of perjury under the laws of the State of Washington that I transmitted the **REPORT AND DECISION** to those listed on the attached page as follows:

☒ EMAILED to all County staff listed as parties/interested persons and parties with e-mail addresses on record.

☒ caused to be placed with the United States Postal Service, with sufficient postage, as FIRST CLASS MAIL in an envelope addressed to the non-County employee parties/interested persons to addresses on record.

DATED October 4, 2017.

Elizabeth Dop
Legislative Secretary

Alguard, Harry and Norma
Hardcopy

Breazeal, Jeri
Department of Permitting and Environmental Review

Deraitus, Elizabeth
Department of Permitting and Environmental Review

Lux, Sheryl
Department of Permitting and Environmental Review

Williams, Toya
Department of Permitting and Environmental Review