

TRYING TO SELL YOUR HOUSE?

Unpermitted Work May be a Problem

Increasingly as potential buyers perform their due diligence or lenders and appraisers check property files in Town Hall they discover unpermitted or unapproved work and are refusing to move forward with transactions. What are town officials able to do to help a homeowner who finds themselves in this position?

At Essex Town Hall we strive for a friendly experience for our land use customers. In these cases we are often able to issue an “after the fact” permit for the work that was performed so that a homeowner can receive a Certificate of Approval. What does this entail?

Basically the procedure is the same as if the work had not already been performed, with a couple of important caveats. Depending on what specifically was done health and zoning permits may be required in addition to a building permit application. We generally waive the requirement to supply building plans since the work has already been done. You must pay a building permit application fee based on the current fair market value of the work including labor and materials. Please be aware that the Building Official has no authority to issue a permit under a previous code version, so **all work must comply with TODAY’S building code.**

After the permit is issued you will need to request an inspection. Normally the Building Official has the opportunity to see the work at various stages of construction before work is concealed. However in the “after the fact” scenario the Building Official just performs a thorough inspection of everything he can see without destructive testing. He will normally get a good idea of the level of quality and code compliance after this inspection. If the Building Official feels confident that the work is substantially compliant he will issue a Certificate of Approval that includes a notation that rough inspections were not requested or performed.

If code violations are discovered during the inspection they must be corrected before a Certificate of Approval can be issued. If the Building Official becomes concerned about any of the work that is covered up he will require enough of the finish materials to be removed to satisfy him that the work is code compliant. So why should anyone obtain approvals in advance of doing the work if they can just get an “after the fact” permit at a later date?

First and foremost, it is the law. Any person who violates any provision of the State Building Code is subject to penalties as per Section 29-254a of the Connecticut General Statutes. But if you need more personal motivation or are concerned that someday you may have trouble

selling your house consider these points: 1) The “after the fact” process can be lengthy. Sometimes health or zoning issues come up that can be time consuming to resolve. 2) If you wait and count on getting an “after the fact” permit you may then have to pay for upgrades to comply with today’s code. These costs could easily be more than the original building permit fee. 3) You are going to pay for the permit anyway. Building permit fees are approximately 1% of the value of the improvement, so the fee is not a huge budgetary consideration when planning an upgrade to your home. 4) If you do work without a permit and thus without approval by the Building Official you may be in a position of increased liability if something goes wrong. Imagine a visitor to your home falls on a set of stairs, gets injured, and decides to sue. Would you rather go to court and be able to show the judge that the stairs were permitted, inspected, and approved by the Building Official or that you built the stairs without approval or inspection according to how you thought they should be?

Town officials have rules that are applied through the departments that constitute the Essex land use offices. The point of a great deal of the State Building Code is to make our buildings safe to occupy and use. We certainly prefer to see you before the start of a project or before you try to sell your house, but let us help you, even if it is “after the fact”.