



Building Inspection and
Neighborhood Services
bldginspect@westalliswi.gov
414.302.8400

July 28, 2020

Common Council
Safety and Development Committee
City of West Allis, WI

RE: Communication for Work Done Without Permits on Pre-1980 Dwellings

Dear Committee Members:

Most of you have likely communicated with a person who has purchased a dwelling in West Allis which had work done without permits decades ago. Many times, the additional bedrooms or bathrooms created by that work have been on the Assessor's Records for decades and is shown on the City's website. That leads the homeowner to assume that the work was permitted. They are often shocked that their four-bedroom house is only permitted to be a two-bedroom house and that the second floor needs to be returned to an unfinished attic space or meet today's building codes. This can be a huge problem for a new homeowner in the City.

In Wisconsin, there were no statewide construction standards for one- and two-family dwellings until June 1, 1980. Since that date, the state has dictated requirements for permits, inspections, and codes for all of those dwellings. Cities are not allowed to be more or less restrictive than the state dwelling code. However, the rules for one- and two-family dwellings constructed prior to June 1, 1980, were left entirely up to each municipality. Cities determined what work did and did not need permits and what codes to follow.

West Allis had its own local building code prior to 1980, so my office has historically required that any work done prior to that date without a permit needs to be brought up to the Uniform Building Code. This Code typically follows the current State code, but there are a few exceptions for older homes. After reviewing several instances in which this approach has caused great financial hardship to a new city resident, there is a good argument to be made that the city's benefit for requiring a permit for very old work that has no signs of danger does not outweigh the detriments for requiring a permit. Permitted work is best because there is a layer of preventative protection, but unpermitted work is not automatically dangerous. The determining factor is quality of construction. While poor quality can be hidden at first, poor quality construction is likely to reveal itself after 40 years in the form of obvious health and safety issues.

To solve this issue, I no longer intend to require a permit for any work that we know was recorded on Assessor or BINS records prior to June 1, 1980. We would treat it like an existing previously approved condition, subject only to permits upon alteration or addition as described in state law. For example, if new work is proposed to an attic that was constructed without a permit, we would review just the new work, and not determine whether work done prior to 1980 had a permit. That being said, if a new homeowner would like to voluntarily apply for a permit to ensure that work was done safely, we would accept, review and inspect the property as best as we could, following the Uniform Building Code just as we would if it was new work.

The reason behind this proposal is to balance out the requirements for permits with making the dwelling safe. If work was done over 40 years ago and there is no obvious safety issue, the dwelling is likely constructed as well as any other. Because the work needed to have been



documented over 40 years ago, this policy shift will not apply to a person who quickly renovates a dwelling illegally to sell it for a quick profit.

This is a fairly large shift in our permit culture in West Allis. Permits were required for this work at that time, so this could be viewed as a way to reward people for getting away with an illegal act for 40 years. But for the same reason as statutes of limitation exist, the city needs to determine whether to enforce permitting laws for work that has existed for at least 40 years and poses no apparent safety risk. I believe the time has come to exercise discretion and no longer require permits for work done prior to the date on which the state uniform dwelling code came into effect.

If you have any comments on this new proposed approach, please feel free to reach out to me at any time.

Sincerely,

A handwritten signature in blue ink, appearing to read "Edward Lisinski".

Edward Lisinski, P.E.
Director, Department of Building Inspection and Neighborhood Services
City of West Allis
(414)302-8414
elisinski@westalliswi.gov