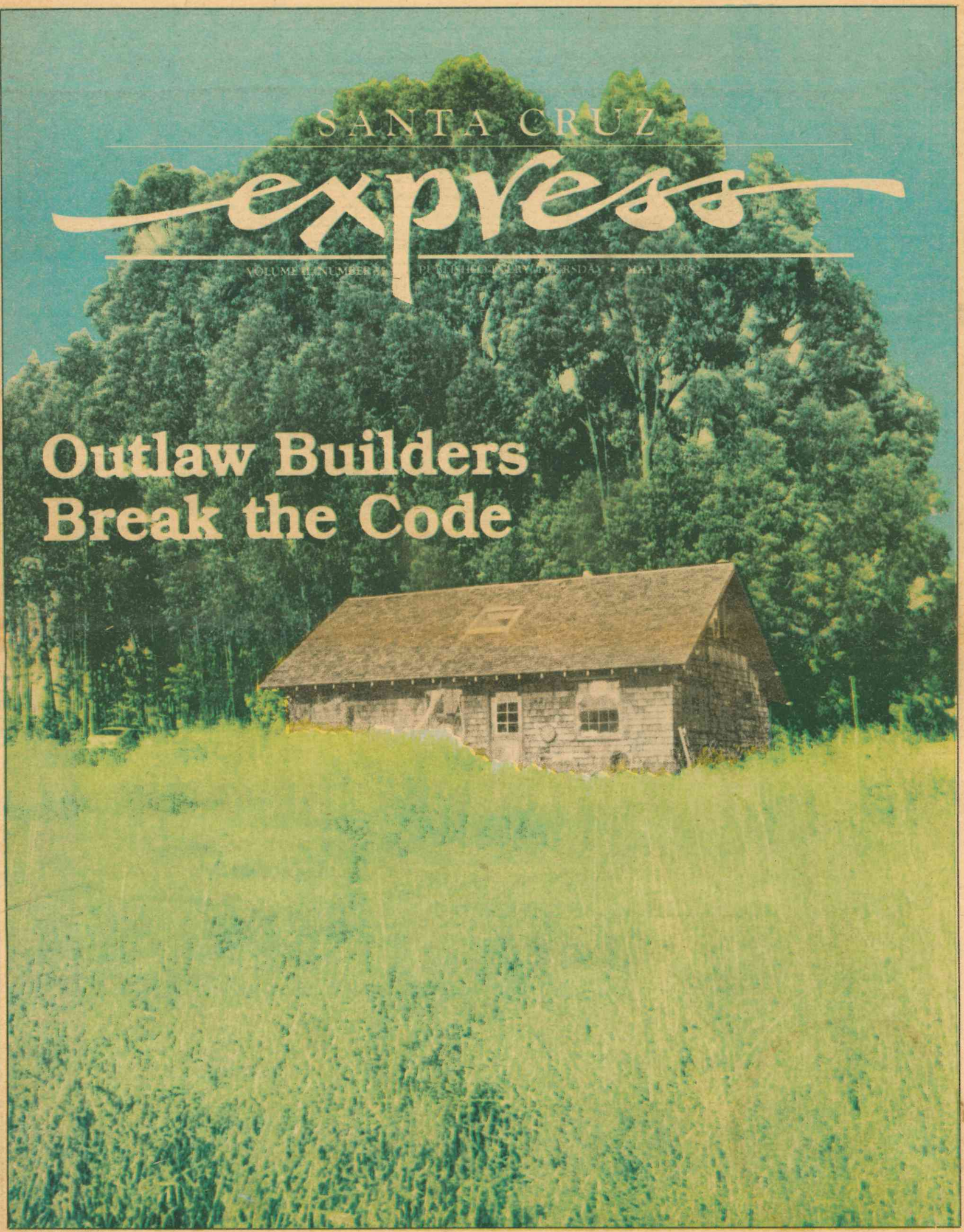
SANTA CRUZ
express
VOLUME II NUMBER 2 PUBLISHED EVERY THURSDAY • MAY 13, 1976

# Outlaw Builders Break the Code



COVER PHOTO: LARRY FISHER

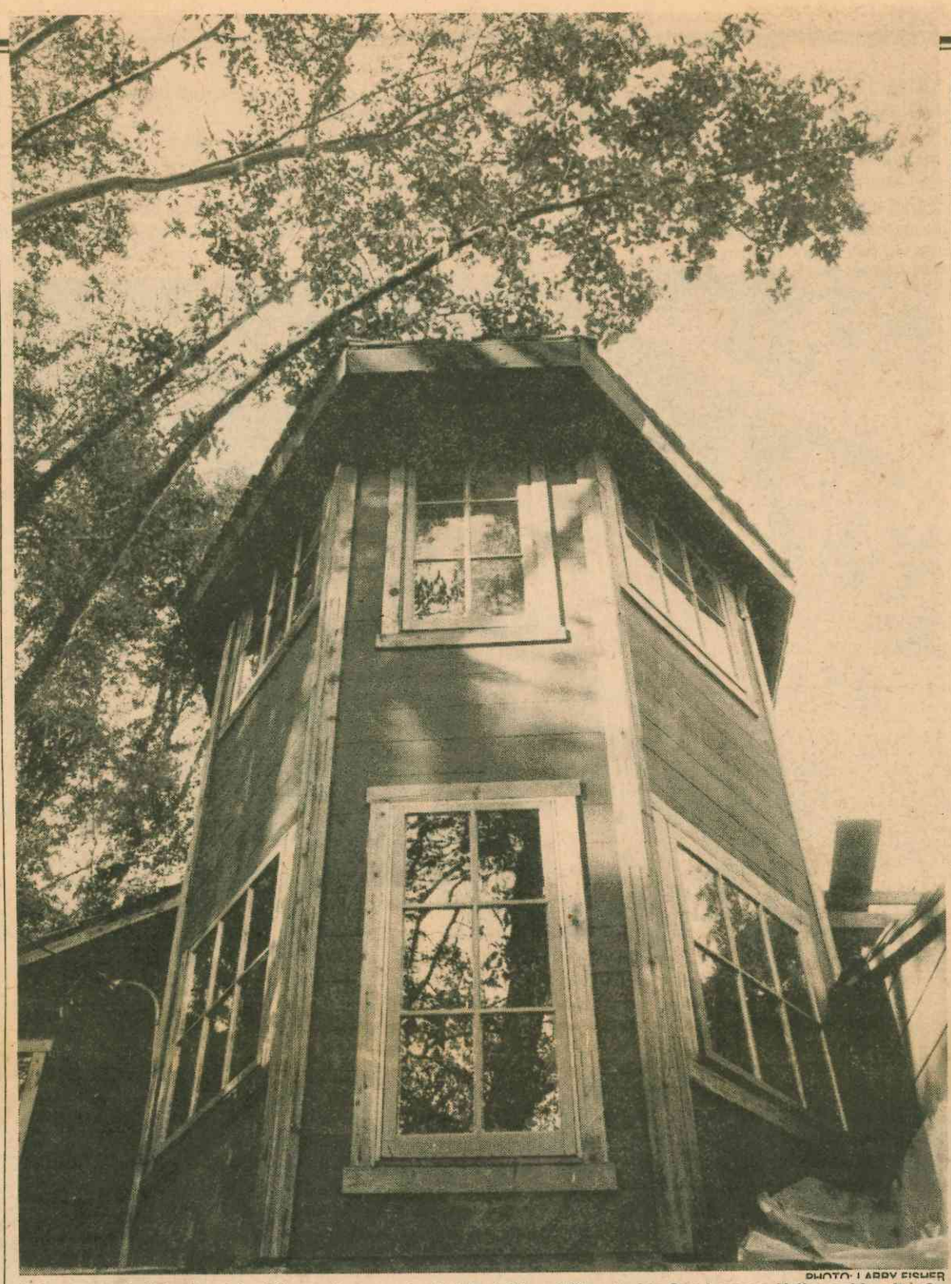


PHOTO: LARRY FISHER

**"I became a builder by default," says Leroy, who finished this addition to his San Lorenzo Valley cabin after 3 contractors worked on it. "The first two couldn't build straight; the third I couldn't afford."**

# Red Menace

## In which Stalwart Owner-Builders Attempt, Through Slightly Illicit Means, to Thwart the Iniquitous Building Code and the Dreaded Red Tags of the Steadfast Building Inspectors.

**Larry Fisher**

Time was (and not so long ago) that if you needed a house you built it. You hauled water from the creek if you had one, or pumped it from a well if you dug one. Life was hard, but life was simple and you tended your own needs.

Most of the world's inhabitants never stopped building their own homes and, even in the United States today, one out of every five houses is built by its owner-occupant. That percentage is swelling owing to an increasingly familiar set of circumstances. Money is more expensive than ever before and so are materials, sending the price of the conventionally financed, contractor-built home literally through the ceiling.

Cost is always a concern, but so is the desire for a more personalized dwelling. Not all owner-built homes are inexpensive, but they all reflect their owners' personalities and priorities in a way commercially produced housing never can. Prior to World War II virtually all homes in the United States were custom-built, either by owners or independent carpenters. The housing boom of the 1950s brought us tract homes and, ultimately, building codes.

The Universal Building Code was not imposed in Santa Cruz County until 1958 and not enforced for several years after that, so the majority of homes here are not code structures regardless of who built them. While the codes were originally devised to protect consumers from unscrupulous or incompetent contractors, to many owner-builders the codes represent nothing more than an expensive, elaborate system of stumbling blocks seemingly intended to safeguard the construction industry from do-it-yourself competition.

Many owner-builders have chosen — in frustration or defiance — to bypass code approval and the permit procedure altogether. To do so is to take a considerable risk. It also means accepting the ironic realization that to build your own home in California in the '80s is to make your shelter a political statement.

Last Chance Road runs through the northern tip of Santa Cruz County. The name Last Chance, the seclusion and the wild beauty of the area all lend themselves to a wild west scenario. But this is deceiving. The residents of this small community are a pretty diverse bunch. What they share is a commitment to a simplified, self-sufficient lifestyle. Most Last Chance homes are owner-built and the area is not served by PG&E, public water or waste disposal.

"Self-suffiency means living with technology simple enough not to be dependent on things which you can't control," says Don Harris, an optical/mechanical engineer who began work on his Last Chance home about four years ago. Like many owner-builders, Harris moved in as soon as his structure was habitable, which is illegal, yet even now he hesitates to describe his home as finished. "Owner-built houses are a living thing," he says, "not a commodity you get done as quick as you can."

While Harris tried to get a building permit, he also wanted to use as much salvaged or recycled materials as possible, which required keeping his building plans flexible. No fixed construction plans means no permit, so he went ahead without one. Harris also points out that code approval costs money — as much as $2,000 for a single family dwelling (resourceful owner-builders have spent less on an entire house).

Harris generates his own electricity with a small water turbine of his own design and manufacture. He is currently test-marketing this device with considerable success. One of the least expensive ways to generate electricity, the water turbine's use is limited to sites where the water supply comes from a source considerably higher than the house. Other Last Chance residents use wind power or photovoltaic cells with rechargeable batteries for storage. "As civilization continues to come apart at the seams," says Harris, "self-sufficiency will become a thing of value. Last Chance had electricity all during the flood."

Harris sees self-sufficiency as a community-level concern rather than the individual track taken by hard core survivalists. He applies the same logic to waste disposal systems. "The Last Chance Road agreement doesn't allow septic tanks near the creek. Consequently, we all have clean water," he explains. "During the flood, code-approved septic systems failed throughout San Lorenzo Valley, leaving that area with a contaminated water supply. Now, Ray Talley of County Health is recommending pit privies as an emergency measure."

A pit privy is not approved as a back-up for the compost-type toilets many owner-builders wish to install. These waterless devices, such as the Clivis-Multrum, have been in use in Scandinavian countries for many years and have recently gained code approval in California, but only if a standard septic tank system (equaling or exceeding the compost system in cost) is installed as a back-up. While compost toilets are not without their own problems, their use reduces a house's water consumption by 30% or more. The code grants them approval and discourages their implementation at the same time.

This kind of paradox is the rule, Harris insists, rather than the exception in the Universal Building Code, which he feels is clearly unconstitutional. He would like to see a more democratic code and has worked towards that end with County and state government. "Codes are all writtten in the form of 'Thou shalt not,' " says Harris. "I've been thinking instead of a Housing Bill of Rights: people are free to do this rather than denied the right to do that. This is very Jeffersonian. I want a system based on guaranteed rights.

"Last Chance is held up as the symbolic center of this," Harris continues, "but it's happening in every part of the County." Media coverage has tended to focus on a romanticized vision of the Last Chance lifestyle, but the attention has not all been favorable.

On the morning of November 28, 1978, Last Chance was invaded by a jeep carrying five armed deputies of the Santa Cruz County Sheriff's Department. One of the officers had his badge stuck in his boot and his gun strapped across his bare chest "Pancho Villa style" as Santa Cruz *Independent* reporter Jerry Busch put it at the time. The officers proceeded through the area insulting and intimidating men, women and children alike. No explanation was offered, no warrant was shown and no arrests were ever made.

More recently, the March 1982 threatened seizure of an alleged Bonny Doon marijuana grower's home has County residents contemplating what Harris calls "the County's (government's) inclination to bypass due process.

Though unusual for Santa Cruz, raids, house seizures and blanket red-tagging of owner-built homes had been commonplace in Mendocino County. There 100 owner-builders had been ordered to vacate and demolish their homes in the middle of winter. Rather than ridding this county of "dope-growers and non-contributors to the tax pool," this repressive tactic organized a previously disparate group of people and led to the formation of United Stand (U.S.). U.S. (now active in several California counties) successfully fought abatement proceedings in Menodcino County and continues to lobby for alternative building standards for owner-built and occupied homes.

Anon Forrest, a founding member of United Stand, was appointed to the California State Commission of Housing and Community Development where she was instrumental in implementing Health and Safety Code Section 17958.5 which permits a city or county to determine that changes or modifications in the state's building requirements are appropriate because of local conditions. Local conditions can include "the general development of the area (including low housing density which minimizes dangers to the health and safety of occupants of neighboring dwellings), the availability of electricity and water in the area, the need for low-cost housing in the area, and the need to maximimze freedom of choice by owner-builders in order to encourage the development of new techniques in energy conservation and aesthetic design."

PHOTO: LARRY FISHER

**Hal Levin (and friends) with the house he built for $13,000. "As an owner-builder I learned I could build a much better house for much less," Hal says.**

Many people felt that the State Commission's list of "local conditions" could be found in abundance in many parts of Santa Cruz County. In late 1977 the Board of Supervisors appointed a committee to review alternative building standards for the County. The committee included building and health officials, architects and owner-builders, Don Harris among them. Chairperson for the committee was Hal Levin, a Santa Cruz contractor/designer specializing in energy efficient homes and an owner-builder as well.

"I had tangled with the absurdities in the codes when designing homes for other people," says Levin, ". . . people who didn't want running water or flush toilets or power from PG&E. But what really radicalized me was building my own house. When you're working for yourself you can afford to spend the time shopping for better material for less money. As a contractor I used the best materials, but I couldn't afford to spend time shopping for price. I found out that as an owner-builder I could spend a lot less and build a much higher quality house.

"The Universal Building Code is really an example of consumer protection gone awry," Levin explains. "Rather than protecting home-buyers, it serves to protect the construction industry, realtors, financial institutions and insurance companies."

When Levin and the committee presented their recomendations to the Board of Supervisors, he commented: "An individual's right to choose a particular lifestyle and build [his or her] own home has come in conflict with government's efforts to protect public health and safety. An individual's efforts to build economic, ecologically sound housing conflicts with bureaucratic and administrative need and convenience."

Support for the committee's recommendations came from many directions. State Architect Sim Van Der Ryn called them "a model for counties everywhere" and "a major breakthrough in terms of a common sense approach to building regulations that respect people as well as public health and safety."

The proposed ordinances were less well received by the 4-1 conservative, post-recall Board they were presented to in the spring of 1978. That body's response was to route the proposals from commission to commission for review, and finally to a filing cabinet.

Two years later, after a *California Today* article (Jan. 6, 1980) spotlighting Don Harris and other owner-builders, the outraged Liberty-Liddicoat contingent decided to add insult to injury and passed the Enfraction Ordinance. Designed to reduce the high cost of prosecuting outlaw builders, the ordinance brought red-tagging of houses to the level of a traffic citation and eliminated the defendant's right to a jury trial.

In a replay of the Mendocino scenario, this move galvanized owner-builders throughout the County. A meeting at Aptos High School drew over 100 people and saw the formation of United Stand Santa Cruz. Subsequent meetings were even larger and made it clear that owner-building was a County-wide phenomenon. The Enfraction Ordinance has not been used — and would not stand up in court if it were — but it has served to focus the issue for many Santa Cruz owner-builders.

Today a more sympathetic Board of Supervisors has yet to do anything substantive with alternate building standards. There is a sentence in the Coastal Plan calling for relaxed standards for cabins in the Coastal Zone, but to date that's all it is — a sentence. Recently (April 20) the Board of Supervisors directed the County Planning Department to ascertain staff capabilities to implement recommendations about alternate standards. But don't count on major changes in the near future.

Dave Laughlin of County Planning points out that this issue is a hard one for County Government to deal with — whether it be progressive or conservative. Government's response tends to be that the code does allow some flexibility and many things can be done to lower housing costs without changing the codes. "We've worked long and hard to set certain standards," says Laughlin. "Relaxing the codes can be seen as an erosion of those standards."

Santa Cruz County's Building Department's policy toward owner-builders has been one of toleration. Both Levin and Harris praised chief Building Inspector Lou Bacigalupi for his general spirit of cooperation. Bacigalupi,

## He Built a Crooked House

Leroy moved into his San Lorenzo Valley house in mid-winter. Built in the '20s as a summer cabin, it was cramped and cold. He met with a contractor who proposed enclosing two large decks on the house and adding an upper level. "He had a license, a BMW and a professional manner, but everything he did was wrong." Leroy's contractor disappeared one day, leaving him with an incomplete addition that he soon discovered wasn't square and wasn't structurally joined to the main house. "I was left with carpentry problems I was in no way prepared to solve."

Working with a local carpenter, Leroy tore out much of the new constrution and corrected many mistakes. "I wound up with a lot of expensive firewood," Leroy says. "My second carpenter knew about stress and how to get things square. But he got stoned every day, so there was no continuity. Also I was paying him hourly—so when my money ran out, so did he."

Winter was again approaching and Leroy was still living in an unfinished house, with plastic covering the ceiling. He scrambled to raise funds, selling his jeep and borrowing money from an "angel of mercy." He found a third contractor who clearly knew his business. "He was much more expensive than the first two, really more than I could afford, but he was worth it."

Leroy's final contractor left him with a structurally sound shell that he could finish himself. "I couldn't afford to have him take it any further, so I became a builder by default."

A woodstove now warms the whole house more than adequately, and with 650 additional square feet, Leroy's home is much more comfortable. He plans to upgrade the house's foundation this summer and hopes to get a permit.

## Home in the Hills

When Ted bought his property in the hills north of town, there were already several illegal dwellings nearby. "I was willing to get a permit," he says, "but bringing the building inspectors up to my house would have endangered all my neighbors." He also felt the codes were overly elaborate and expensive. Working, like most owner-builders, totally with cash, he was already on a tight budget.

A squabble between two other neighbors brought County inspectors into the area and Ted's house was red-tagged. He was told to install a septic tank, which he did, and to have the house engineered, which he refused. The installation of the septic tank appeared to satisfy authorities, who didn't call again.

Three years later Ted was red-tagged again when an inspector spotted his newly paved driveway. At this point Ted decided to hire an engineer rather than continue the battle. The engineer found only minor deviations from code in Ted's structure, Ted made the necessary corrections and was finally granted a permit. Through this process he found the Building Department helpful and cooperative.

"I had no previous building experience aside from making a bookcase and a bed," says Ted. "I bought a book on frame house-building and I worked slowly. You have to proceed in an organic, reasonable way as your experience and finances allow."

PHOTO: LARRY FISHER

for his part, feels he has neither the manpower nor the desire to scour the County busting illegal builders. Houses in Santa Cruz have been red-tagged, but they haven't been bulldozed.

Policies can change, but for now buildings without a permit and code approval remains a very large risk. It's a risk many people may not be willing to take and it's a risk some owner-builders feel you should not take. "We encourage everyone to go along with the code," says Blair Abee, director of the Owner/Builder Center, while admitting that the difficulty of obtaining permits in Santa Cruz County is one reason behind the Center's move from here to Berkeley. "A lot of the codes *are* antiquated," he explains, "but you can't get around them. Building a house is going to be difficult enough; you might as well pick battles you can win."

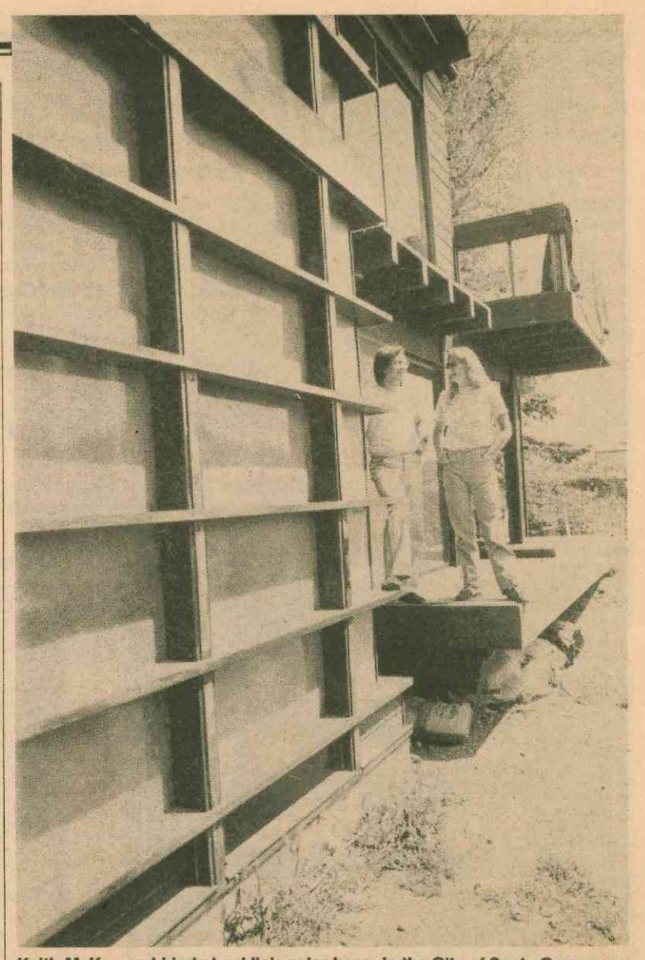
The Owner/Builder Center offers classes in homebuilding and remodeling at several locations around the Bay Area. Currently the Center is not giving classes in Santa Cruz, but does draw many Santa Cruz students to its San Jose location. The classes are taught by professional builders with an emphasis on nuts and bolts. "We try to demystify building a house," says Abee, "which on the surface looks very complex, but breaks down into a series of simpler, smaller projects, like Tinkertoys."

During sixteen three-hour sesseions students in the Housebuilding class go from foundations to financing. The cost is $300. Hands-on experience is available in weekend workshops covering topics such as tile setting, plumbing, electrical and solar installations. For an intensive learning experience, three week summer residence programs offered in Berkeley and Grass Valley put students to work building actual homes. These are taken from foundation to as far as time permits. The homes are finished by the Center's staff and later sold at cost. For more information call the Center at (415)848-5950.

Abee echoes many owner-builders when he stresses the necessity of evaluating your "inner resources" before building. "You have to be emotionally prepared," he explains, "which means considering your marriage, your children, your career. If any of those things are troublesome you'll go crazy trying to build a house."

To date only Humboldt and Mendocino counties have taken advantage of the state's provision for alternate standards and litigation continues there in spite of the changes in the law. Complications faced by the alternate standards in Santa Cruz County include the desire to limit growth, problems with resale of non-code structures and health concerns in populated areas.

The answers to those questions won't come quickly or easily. But every day yet another builder picks up hammer and nails. The questions aren't going to move away either. Don Harris' words could speak for many of his peers. "An emerging ethic of voluntary simplicity seeks expression in these times of 'consume and discard' thinking. It moves to see housing as process as well as product, as art and recreation as well as shelter, as shrine as well as living space." □



**Keith McKay and Linda Locklin's solar home in the City of Santa Cruz nears completion after two years. "It's going to be a lot harder, take a lot longer and cost a lot more than you estimate," says Linda. "But it's worth it."**

# Form Follows Function

Keith McKay and Linda Locklin had looked long and hard for a lot in town. When one came on the market with a perfect north-south orientation they snapped it up, even though the price ($42,000 nearly three years ago) was steep. Located in the center of town, there was never any question of building without a permit, but with Keith's background in architecture, construction and building inspection this was not a problem.

Keith and Linda's house incorporates both passive and active solar principles for a high degree of energy efficiency. A south-facing solar greenhouse will be augmented by a system of blowers and ducts, but even now it warms the house adequately on all but the coldest, overcast days. There are 15 tons of rock below the floor for thermal storage and a woodstove as a back-up. Solar water heating panels will be installed soon.

Keith's plans originally called for six months building time and about $40,000 in building costs. After a little over two years, the house is just now approaching completion while costs are nearing $80,000. This is due less to under-estimation, Linda explains, than to their decision to use expensive hardwoods and tile throughout the house. "As we began to build and realized what a nice house this was going to be, it seemed crazy not to use the best materials. We intend to live here a long time."

AT 850 square feet, this is a small one-bedroom house, but the spacious design, corner placed windows and extensive natural materials make it seem much larger. For all its elegance, Linda and Keith insist it is a very simple, practical house. "You don't see a lot of cutesy angles that don't serve any purpose. Form follows function."