

MUNICIPALITY OF ANCHORAGE
BOARD OF BUILDING REGULATION EXAMINERS AND APPEALS

Meeting Minutes

August 4, 2005

1. CALL TO ORDER AND ROLL CALL: The meeting was called to order at 7:30 p.m. by Chairman Dave Paule

Board Present	Board Absent	Staff Present	Public Participation
Dave Paule	Colin Maynard	Jack Frost	Sue Isabelle
Dave Gardner	Tom Zietlow	Bob Nibert	Del Isabelle
Skipp Bringmann	Paul Michelsohn	Ross Noffsinger	
Bob Whealy		Wayne Bolen	
Jon Steele		Becky Hellman	
Michael Cooke		Phil Calhoun	
Terry Bolton		Mike Woods	
Scott Bohne		Ron Wilde	
		Mark Barnhill	
		Jim Stubbs	

2. APPROVAL OF AGENDA: Agenda approved

3. APPROVAL OF MINUTES: Minutes of the May 5, 2005 meeting were approved.

4. PUBLIC HEARINGS: Appeal BCA-03-2005, 6555 West Dimond Boulevard, Anchorage AK

Chairman Paule explained the procedures and swore in all those who would testify.

Staff Outline:

A residential single-family dwelling is being constructed at 6555 West Dimond Blvd, Lot 7B, Block 2, Seaview Heights Subdivision. The plans and calculations were reviewed and stamped approved by Building Safety on July 7, 2003. A permit for construction was issued. However, the building was not constructed in accordance with the approved set of plans. Deviations include a major redesign of the roof structure. The changes constitute a hazard with a potential for collapse. Numerous stop work orders have been issued in an effort to compel compliance with the building code. Staff is recommending abatement by resolving issues through a structural engineer within the time frame specified in the Notice and Order letter sent to the appellant, June 8, 2005.

Appellant Testimony:

Del Isabelle submitted additional documentation. Chairman Paule stated that neither staff nor the board had time to review the additional information, and although it is not required that they do so, they would as a courtesy.

Sue Isabelle went on to testify that she and her husband, Del, were long-time Alaska residents and have been in the construction business for close to 30 years. Del has a journeyman carpenter certificate and a journeyman welding certificate. He also has experience in framing and they have branched out into excavating.

They bought the property in question in 2002 and are frustrated with the sequence of events leading up to this appeal. When they first bought the property, they sent letters of introduction to the neighbors to let them know they would be applying for fill permits. The neighbors were not pleased and asked that the Isabelles provide a

letter saying they would not subdivide the three-acre lot. The Isabelles could not make that kind of guarantee, but they worked through the issue.

Problems arose with the neighbors (the Crocketts), who didn't want a deep gully between the two properties. In 2001, the Isabelles applied for a fill permit for 48,000 cubic yards. In 2001 and 2002 Mr. Crockett worked on his north line which was adjacent to the Isabelles' south line. Mr. Crockett wanted fill material in his yard to level it out and Del stated he could come get it himself because the Isabelles' trucks couldn't access the Crocketts' property. After Mr. Crockett came to get the fill, the Isabelles were contacted by Chuck LaCasse of Building Safety because the neighbors had complained about drainage. A meeting was held on site to show that drainage was draining correctly.

In July 2003, the Isabelles received a letter from Scott Haan, Chief of Inspections at Building Safety, regarding too much fill and the area did not meet the grading plan. Del notified Scott that the fill was compliant.

A site meeting was held in August 2003 with Scott Haan, the Crocketts and the Isabelles. The Crocketts complained that fill encroached onto their property. The objection by the Isabelles was that for two years Mr. Crockett was provided with fill and wanted it there so there would be no gully between the properties. The Isabelles agreed to remove fill and move their driveway.

In September 2003 the Isabelles received a stop work order because of excess fill. The Isabelles sent a letter on September 30 stating that all fill was removed as agreed. Site visits by Scott Haan stated there were more complaints, the property lines were unclear, and there was not enough compaction. A July inspection by Scott Haan required that fill amounts be determined; slope setbacks be provided; a slope analysis be provided; and fill removed from the neighbor's property. The Isabelles stated that all fill had been removed in 2003.

In August 2004, a stop work was issued for failure to verify amount of fill on neighboring property, however in a meeting at Building Safety on August 12, the Isabelles were advised that the fill was in compliance and Ron Thompson gave approval to stockpile fill until August 17, 2004.

On August 18, 2004, Building Inspector Mark Barnhill did a pre-framing inspection. The Isabelles claimed they were never notified that an inspection would take place and that they never received a report. They stated they had to obtain that report through their attorney.

Building Safety called Del to schedule a meeting on August 19. The Isabelles' understanding was that they would be moving forward with the project. When they arrived at the meeting, Ron Thompson, Scott Haan, Jim Stubbs, Denis LeBlanc, Pam Jennings, the Crocketts, and Kate Remme were in attendance. The Isabelles felt the neighbors were in control of the meeting and that this was not a plan review process. It turned into a shouting match.

Mrs. Isabelle continued to testify at length about problems with Building Safety and the neighbors. She claimed that Mark Barnhill watched her house from a parked car with binoculars and would show up at other times and ask what Mr. Isabelle was doing. APD would park nearby and eventually issued Del Isabelle a citation and told him he could not return to the house. The Isabelles obtained the services of Grant Morley and Bill Ivy to help with engineering and design and at an October 2004 meeting with Building Safety, everyone was pleased that all would be resolved. The Isabelles received a letter from the MOA Attorney offering to drop criminal charges if Mr. Isabelle paid a fine and did community service and probation. The Isabelles objected to this. The City Attorney advised if there were any other violations occurring against the stop work orders they would press for one year in jail and a \$5,000 fine.

The Isabelles were still receiving letters from Building Safety demanding that fill be removed from the neighbor's property, even after the fill had been removed.

Change order was submitted on May 5, 2005 but sat for two weeks because the counter forgot to route it. There were issues about whether Del, as the owner/builder, needed an architect's stamp. On June 8, the Isabelles received the Notice and Order letter from Code Abatement due to structural deficiencies, and the house has been locked and boarded up since.

The Isabelles agreed that there may be issues with the roof because the framing is incomplete, but it's premature to say it's not safe. The stop work orders have impacted them because they cannot move forward with anything. They are asking for the Board's assistance in working the fill permit. They feel that this is far beyond anything they should have been subjected to; they also feel they should have been notified of the inspections and given inspection reports so they could work on problems before the stop work orders were issued. The Isabelles stated the building is two stories with a basement, but without being able to do the back-fill because of the stop work order, it appears to be three stories, requiring an architect's stamp. The Isabelles said they have an approved design and would like to get to that goal.

Mr. Steele asked about the building being two stories or three. Mr. Isabelle replied that it was a gray area, but they had gotten approval. Mr. Isabelle stated that if this was an issue, he would frame up the garage wall and bring up the grade.

Staff Presentation:

Bob Nibert apologized for Ron Thompson being out of state. He said that the only issue Building Safety was addressing at the meeting was the structure itself, in that they had varied from the manufactured trusses. He introduced Ron Wilde to present the case.

Ron Wilde stated that the grading issues were not a matter in the Notice and Order. The original permits were issued based on construction documents and the Isabelles deviated from those plans. Mr. Wilde stated the beams were seriously overstressed and don't carry to foundation elements. He had concerns about the structure being able to take seismic and wind forces. There was significant difference in the drawings submitted and the actual construction. Changes need to be submitted before construction so they can be reviewed. The stop work order and criminal charges were to get him to stop building the house without approved drawings. Subsequently drawings have been submitted – not only the roof but numerous other changes. Most stop work orders had to do with fill. Some were lifted in order to help them weatherize the building for the winter. The problem is that the change orders have not been substantiated with calculations. Building Safety has been asking that a structural engineer get involved. State law allows an owner/builder to design, but they still need to supply calculations. The Notice and Order comes from ongoing lack of addressing the issues. The issue of the building being two or three stories is a moot point. The Building Official has the authority to require an engineer and we've done that because the information they provided doesn't address the issues. Anything over two stories requires an engineer and the photos clearly show this is a three-story building. Staff recommends this building be reviewed by an engineer. It does not appear to be structurally sound and there is no guarantee it will hold up to winter. We believe it to be hazardous and want it repaired.

Questions:

Steele: If appeal is not granted, what does MOA want? Wilde: Resolution within time frame or demolish. We don't do structure analysis.

Steele: Heavy-handed hammer – if appeal isn't granted, what is the next step? Wilde: Hope is to have the building abated by repair; to have them get an engineer and fix the building to code compliant design.

Steele: Comment about load paths: what was reviewed and approved? Wilde: Framing below roof was changed and that plus roof constitutes changes. If it were not for these changes, we would not be here tonight.

Steele: Do you feel this can be resolved if they hire an engineer? Wilde: Yes.

Bohne: Is the fill, grade, and drainage resolved? Wilde: No. It's not in accordance with the grading permit. It's not completed and there's a stop work until they get it fixed.

Gardner: Shoring efforts – have they been complied with? Wilde: Not sure they've done enough to satisfy the upcoming season.

There was discussion about various change orders for foundation walls and height of the attic. Mr. Isabelle said he made numerous changes to the framing to address concerns and when asked if he removed any shear walls that would change lateral resistance and roof loads, he answered none that he was aware of. He said he increased values of construction by extending every tie-down all the way up.

When asked if he was agreeable to getting a licensed engineer, Mr. Isabelle said yes, but he didn't think he needed to stamp the whole building. Mrs. Isabelle said it was not necessary to have a complete redesign. Her frustration is that the review comments are too vague and not enough information is provided so they can respond. They feel they are answering the same questions over and over.

Mr. Bohne asked if the Isabelles felt this appeal was only the framing and not the grading. Mrs. Isabelle replied they are interlocked – nothing can be done with both stop work orders in place. They do not know where they are not in compliance. They're willing to supply what is required but it needs to be reasonable. Much has been unreasonable.

Chairman Paule felt that this was a messy situation and it seemed like both sides were unwilling to work together. He recommended the Isabelles hire an engineer to get the issues resolved. He said the vote of the board may not be the end of the issue as either side could appeal to the district court. Mr. Paule felt that it was troubling that the city called APD. He has been in business for over 30 years and has never been in that situation. The resolution of the two permits are linked and nothing could go forward. He felt that staff should have addressed both permits, as a vote tonight would still leave the fill permit unresolved.

It was noticed that the appeal was not only the abatement of the Notice and Order, but also for the stop work orders on both the fill and the structure. The legal ramification of granting an appeal, which included a stop work order, was questioned. Mr. Wilde questioned whether the board could lift a stop work order since no one has legal authority to work without a legal permit. It doesn't appear that the Board can allow them to go ahead to work. Mr. Paule agreed that this was a gray area – what happens if we uphold the appeal? Mr. Frost responded that we need an MOA attorney to review and give us time for resolution. Mr. Paule felt the board could not vote on this issue at the present time. If the board rescinded the stop work, MOA still has the right to require documents and they're right – they should be provided before you do work.

Becky Hellman testified that she did the review and felt there were many changes from the original plans. She went out for a three-hour site visit to verify the as-built. Most plans she reviews are done in a matter of hours; this one took four days. She was frustrated – the gravity systems had deficiencies in the support system all the way down to the basement. There were so many deficiencies she couldn't write up that many comments. She asked the Isabelles to show changes in beams, seismic, deck space weight, and calcs, but she didn't receive the information. She was willing to sit down and show them the deficiencies because it would be too time consuming to write up all the deficiencies. She felt that plans should be ready for review when they're submitted. Mr. Paule said that she is required to review the plans and Ms. Hellman replied that she did that, but she was not a design source, she is a reviewer who reviews designed material.

Mr. Steele felt resolution was contingent on getting an opinion from MOA Legal. Mr. Paule felt it was important to have the Building Official present.

MOTION by Mr. Steele to postpone action on BCA-03-2005 until a future time when quorum can be established and legal opinion known. **SECONDED** by Mr. Bolton. Board discussion. **PASSED** unanimously.

5. APPEARANCE REQUEST: None
6. UNFINISHED BUSINESS: None
7. NEW BUSINESS: None

8. **REPORTS:**
 Staff: Ross Noffsinger reported that the codes were in Legal still being reviewed. Anticipated date for introduction to the Assembly is August 23 providing Legal finishes their review. Mr. Noffsinger said that people would be allowed to submit plans under the 2003 codes as the state had already adopted them. Implementation would be immediate upon adoption. Mr. Gardner stated he had a 15-story building under design now – will it be required to change? Mr. Noffsinger stated if 50% or more complete, he could still use the old code.
9. **AUDIENCE PARTICIPATION:** None.
10. **BOARD MEMBER COMMENTS:**
 The board expressed disappointment and concern that MOA used the AEBC on a building still under construction. They felt that spying and APD was very heavy-handed.
- Mr. Noffsinger stated that what we're seeing is frustration. The Isabelles ignored everything they were asked to do. All the city wants is an engineer's report. Mr. Frost stated that APD was called because of violations to the stop work orders. Mr. Stubbs said we weren't spying; he was instructed to go by once a day because of the stop work order violations. We're busy and don't have time for stake-outs. We would meet with the Isabelles, Mr. Isabelle would say he would do something, and then he never would. Mr. Stubbs said that Denis LeBlanc came to the site twice to try to resolve issues. Mr. Isabelle had so much fill on his property, he couldn't get a back hoe in
11. Meeting adjourned at 10:20 p.m..

_____/_____
 Dave Paule, Chairman Date
 Board of Building Regulation Examiners and Appeals

_____/_____
 Jack Frost, Acting Director Date
 Board of Building Regulation Examiners and Appeals