



Municipality of Anchorage  
Development Services Division  
Community Development Department  
Memorandum



DATE: April 9, 2015 -  
TO: Building Board Three Member Panel  
FROM: Bob Kniefel, Building Official  
SUBJECT: Staff Report – BCA -02-2014  
Delido and M.S. Isabelle Appeal  
Lot 7B, Block 2, Seaview Heights Subdivision  
6555 West Dimond Boulevard

**REQUEST**

Tab #2 contains the appeal filing by the Isabelle's regarding their home construction project. In general, the filing deals with the following:

1. The Isabelle's are requesting that the Board 8-10-05 postponement of action in BCA -03-2005 be lifted,
2. the recent appeal BCA-02-2014 be consolidated with the BCA 03-2005 appeal and the 2006 Notice and Order and heard by the Board,
3. the MOA failed to follow proper procedure with work order posting, notification and work order contents,
4. that Isabelle be allowed to supplement the record before the Board, and
5. the remaining issues with the MOA be consolidated into a single proceeding.

**BACKGROUND**

The purpose of the two permit applications was the construction of a private residence and lot grading for the Isabelle's property at 6555 West Dimond Boulevard. Over the course of the construction efforts by Mr. Isabelle, a large amount of correspondence and a number of meetings were held with Mr. Isabelle to deal with the eight Stop Work Orders applied to the property. A summary of the stop work orders is included as Attachment #3. The reasons for the stop work orders deal primarily with two areas of concern. The first was deviations in the house construction from the approved plans. The second area deals with changes in the fill and grading plan which included unsuitable fill, changes in the fill quantities, no compaction, and fill placement on the adjacent properties. The Board held a hearing in Case BCA 03-2005 and approved a motion to postpone action until a later date. The board minutes are included under Tab #3. Attachment #4 is packet of the various legal filings that deal with this appeal.

A synopsis time line for the various permit and stop work order activity is shown under Tab #7. It served as the basis for the Work Order Summary shown as Attachment #2. To help sort out the actions and responses to date, we prepared a summary of the major activities. Please note this synopsis and summary do not include all communications/meetings held during this period.

### House building permit 01-0076 activities

1. 1-31-01 - Mr. Isabelle filed for a building permit and was given footing and foundation approval 3-21-01 with the full permit approval dated 7-23-03
2. Following an 8-18-04 staff inspection, a STOP WORK order on the house construction was issued 8-26-04 noting the structure was built differently than the approved plans. The structure would need to be shored or retrofitted to prevent collapse.
3. 8-26-04 - A letter from Building Official Ron Thompson noted the fill material was improperly placed (on the neighbors property, did not follow setback requirements, improper drainage design and a lack of compaction).
4. 10-14-04 – Letter from Thompson to Isabelle noting Isabelle could start shoring the roof to prevent collapse while revised house plans and calculations were compiled and submitted for approval.
5. 8-26-04 to 11-30-04 - Numerous communications between staff and Isabelle concerning stop work including an APD citation 30013360 to enforce the stop work order. Note from Ron Thompson that Isabelle could fasten incomplete exterior wall sheathing and tie down anchors to transfer loads between the foundation and the roof.
6. 5-12-05 – Inspection Report noted Dangerous Building
7. 6-08-05 – Letter of Notice and Order of Abatement of Dangerous structure sent to Isabelle.
8. 8-04-05 - Isabelle appeal of stop work order (BCA-03-2005) heard by Board. Board postpones action on request until further information is available.
9. 7-20-07 - Additional discussions between staff and Isabelle continued resulting in Fill Stop Work order being lifted. House Stop Work Order will continue until the fill plan is resolved and plan review approves house plan changes.
10. 10-8-07 – Change Order #2 (major structural modifications) approved and communicated to Isabelle.
11. 5-27-08 – House construction stop work order dated 8-26-04 lifted.

### Grading permit 00-0683 activities

1. 10-31-00 - Isabelle applies for grading/fill permit
2. 11-28-00 – Permit 00-0683 issued
3. 04-23-01 – Change Order #1 submitted (substantially increasing the scope of grading/fill)
4. 05-08-01 – Change Order #1 approved
5. 06-30-03 – Letter from staff to Isabelle noting code sections not being followed including setbacks from property lines. Staff required an engineer inspection report and response to code requirements
6. 7-14-03 – Letter from staff to Isabelle about 1) issues with fill on adjacent property, 2) no setbacks of fill from property lines, 3) the slope of the fill material and 4) the amount of fill compared to the original permit request
7. 8-06-03 – Letter from staff to Isabelle noting since no response to first letter, a Stop Work will be posted on 8-06-03
8. 8-06-03 – Stop Work Order issued. Work not in compliance with approved grading plan
9. 8-13-03 – Staff lifted the 8-06-03 Stop Work Order to allow for fill to be removed from adjacent property area.
10. 8-15-03 – Staff letter to Isabelle noting fill on adjacent property approximately 30 feet in depth. (Attachment #3)

11. 8-18-03 – Isabelle provides proposed agreement for neighbors and MOA to sign agreeing to limit fill removal to 15' and waive setback requirements. MOA does not sign.
12. 9-29-03 – Stop Work Order on fill issued. Ron Thompson issues letter to Isabelle noting stop work order will be in place until fill area survey and calculations are submitted and a revised change order approved.
13. 9-30-03 – Letter from Isabelle to Thompson questioning 9-29-03 fill stop work order.
14. 10-03-03 – Plot plan is received showing shift in driveway away from Crockett property. The 09-29-03 Fill Stop Work Order is lifted
15. 6-15-04 – Staff letter to Isabelle noting requested engineering oversight was not submitted to verify 1) the amount of fill, 2) the fill toe locations, 3) fill slopes, 4) fill lifts, and 5) compaction was done according to the permit plans.
16. 6-16-04 – Letters from Isabelle to staff noting he has a dump site and does not need engineering oversight. Isabelle noted he had removed the fill to the original ground elevation
17. 6-17-04 – Letter from isabelle to staff noting permit does not require engineering information
18. 6-17-04 – Staff inspection report to isabelle again noting the need for additional engineering information to be submitted by 6-25-04
19. 6-25-04 – Letter from Isabelle engineer Tobin Spurkland with engineering report on fill. Report notes fill at north end of Lori Drive will not meet setback requirements.
20. 6-26-04 – Stop Work order posted on property. Order notes permittee failed to provide engineering analysis including compaction tests and survey verification of fill amounts.
21. 6-28-04 – Letter from Isabelle to staff. He notes staff failed to provide proper permitted documents for his type of fill.
22. Letter dated 6-28-04 from Spurkland to staff. Provides rough estimate of fill quantities. Letter not received by staff until 8-24-04.
23. 7-01-04 – Letter from Isabelle with Proctor and compaction results.
24. 7-02-04 – 6-28-04 Stop Work Order lifted
25. 7-06-04 – Staff inspection report to Isabelle. Inspection report notes the following needs:
  - a. Remove fill from Crockett property and apply 20' setback
  - b. Verify elevations along south property line and remove excess
  - c. Comply with setback requirements
  - d. Grade slopes
  - e. Provide engineering report
26. 7-07-04 – Letter from Isabelle – All issues in staff 7-06-04 letter existed before stop work order lifted. Also wants Crockett's fill to comply with same conditions.
27. 7-08-04 – Formal complaint from Isabelle noting Mr. Crockett had filled his embankment area prior to Mr. Isabelle.
28. 7-23-04 – Letter from isabelle noting if Crockett had signed draft agreement in - 18-03 then proper fill could have been done
29. 8-05-04 – Stop Work Order posted dealing with need for engineering information for fill area.
30. 8-06-04 – Letter from staff to isabelle noting basis of stop work order is failure to provide required engineering analysis report on fill/grading by 7-20-04

31. 8-19-04 – Major meeting on site to discuss issues. Result was lifting of Stop Work order with condition that a test pit to be dug to determine depth of fill on Crockett property.
32. 8-23-04 – Test pit dug. Pit shows approximately 15' of unclassified fill on top of native ground
33. 8-26-04 – Fill Stop Work Order posted since fill appears to exceed limits of permit and the pit shows the fill was placed on neighboring property.
34. 9-03-04 – Letter from Isabelle requesting clarification on what is needed.
35. 10-05-04 – Letter from Isabelle discussing issues raised in previous letter
36. 10-14-04 – Letter from Thompson to Isabelle addressing his 10-05-04 concerns
37. 12-03-04 – Isabelle letter to staff discussing need for potential agreement between him and neighbor about fill.
38. 12-22-04 – Email from staff to Isabelle that MOA is not a party to deal with agreement between neighbors. No additional test holes will be required.
39. 2-01-05 – Letter from Isabelle to Thompson – copy missing from file
40. 2-25-05 – Letter from Thompson to Isabelle responding to Isabelle letter of 2-01-05. Discussing need for Crockett to get fill permit if 1) additional fill to be placed, 2) what would be the quantity of fill, and 3) if no agreement between Isabelle and the neighbor (Crockett) then fill must be removed.
41. 6-14-05 – Notice and Order posted on property and sent certified mail regarding the unstable slope conditions.
42. 8-04-05 – Board hears Isabelle appeal. Board postpones until further information is available.
43. 1-27-06 – Letter from Thompson to Isabelle – Fill on Crockett property must be resolved before any other work can proceed
44. 8-02-06 – Letter to Isabelle noting existing house and fill stop work orders have been combined into one order
45. 9-03-06 – Combined Notice and Order filed since failure to obtain approved plans and failure to remove fill from Crockett property
46. 8-16-06 – Final Notice since failure to respond to 8-03-06 Notice and Order
47. 9-25-06 – Letter to Isabelle authorizing emergency repairs for slope stabilization
48. 9-26-06 – Memo from Isabelle to staff that he is going to begin emergency repairs along west property line
49. 9-27-06 – 8-26-04 Stop Work order lifted and Grading Plan Change Order #2 was submitted and approved to stabilize slope.
50. 10-05-06 – Stop Work Order re-issued since grading plan not followed and poor material used for stabilization of slope was not approved
51. 6-21/22/29-07 – Isabelle emails asking what is hold up on change order #2
52. 7-20-07 – The 10-05-06 Fill Stop Work order lifted, House Stop Work Order continues
53. 9-04-07 – Change Order #3 for three tier Gabion wall approved
54. 10-4-07 – Change Order #4 approved expanding Gabion Wall to four tiers
55. 10-27-07 – Inspection report that all work for stop work had been completed.
56. 05-27-08 – Fill being placed
57. 7-28-09 – Wilde summary report concludes that the current grading configuration does not comply with the approved design.
58. 7-29-09 – Ron Wilde inspection of recent grading/fill operation
59. 08-26-09 – Thompson recommends that Isabelle dig a retention pond on site to prevent runoff to adjacent properties
60. 10-1-09 – Isabelle completes retention pond

61. 2-04-10 – Stop Work Order posted due to illegal dumping of fill. Cease and desist immediately. This is the only Stop Work Order presently in effect. Attachment 4
62. 5-05-10 – Wilde report on Isabelle issues completed
63. 1-23-14 – Letter from Building Official Walsh to Isabelle outlining concerns and potential solutions
64. 4-22-14 – Letter from Walsh to Isabelle outlining conditions necessary to continue work on the project. Attachment #5
65. 4-25-14 – Isabelle Letter to Walsh commenting on Walsh 4-22-14 letter. Attachment #6
66. 9-26-14 – Letter (Notice and Order) from Ron Thompson to Isabelle (Attachment #7 listing 4 issues to be resolved to clear permit.
67. 1-22-15 - Isabelle files appeal BCA-02-2014 to the Board.

### **DISCUSSION:**

As can be seen from the above time line of actions, this has been a very active effort between the MOA and the Isabelle's to achieve their goal of constructing a private residence while meeting the applicable code requirements. In general, the house construction differed from the plans as approved which were eventually revised and approved. Currently the only Stop Work Order in effect is the 02-04-10 Order dealing with the drainage plan. The issues noted on the Stop Work Order include:

1. The original grading plan was not followed
2. The fill material as placed contained organic materials and was not suitable for use.
3. The fill material ended up crossing the property line and impacted the neighbor's properties.
4. The fill material was placed with an unacceptable steep side slope and no compaction
5. The fill material did not have the required 20' setback from the property line
6. The constructed driveway access on Lori Drive was outside the ROW for a portion of its construction.

The 9-26-14 Notice and Order letter from Ron Thompson to the Isabelle's lists the outstanding items and proposed methods to satisfactorily resolve them. Attachment #8 includes backup material for each of the items discussed below. In summary the four items include:

1. Lori Drive Alignment - An improvement to Public Place agreement or a new driveway permit to relocate Lori Drive into the public right-of-way. A portion of the road as constructed by Isabelle's is located on adjacent private property. Based upon the final resolve on the location of Lori Drive, the MOA will select a new CEA pole location and inform CEA to proceed with the pole relocation. Tab #8 includes the general issues on working with an IPP. Tab 9 includes the MOA Driveway Standards.
2. Site Drainage Plan – The fill effort substantially reduced the size of the pre-fill detention pond. See before and after topographic maps in Attachment #8. Isabelle to update and submit for approval a revised site drainage plan. This plan will need to show that runoff from the site does not exceed pre-construction runoff totals and the on-site detention pond is properly sized. An option to the site plan submittal would be to enlarge the detention pond on the Isabelle's property to properly handle the drainage needs. The pond size

changes to be done with MOA staff on-site review. In either case, the fill materials placed on adjacent property will be removed and the property line setback areas and proper side slopes will be implemented.

3. Engineered Foundations - Isabelle's would file a statement with the State of Alaska Records Office that without a proper geotechnical evaluation and an engineered foundation, no additional structures would be built on the property where any of the fill materials have been placed.
4. Building Structural Stability – Do to the long period of time between the lifting of the house stop work order (2008) and present, Isabelle's to provide a Structural Engineering Assessment Report to the MOA reviewing the current structure and its structural stability capacity. If any recommendations are made concerning the structure, the building plans would need to be updated and submitted for approval prior to any additional work on the structure.

**RECOMMENDATION:**

Based upon the four items requested in the Isabelle 1-22-15 filing in this case, the following staff recommendation is provided:

1. BCA -03-2005 be closed as it is no longer valid since the Stop Work Orders that formed the basis for the original appeal were lifted.
2. The Board denies the BCA-02-2014 appeal of the 9-26-14 Notice and Order.
3. The Board concurs with the four conditions noted in the 9-26-14 Ron Thompson Notice and Order letter and orders Mr. Isabelle to complete the items in a timely manner.