



**City Of Bisbee
Board of Adjustment Meeting
118 Arizona Street
Bisbee, Arizona 85603**

May 24, 2010, 5:30 pm

Minutes

***THE ORDER OR DELETION OF ANY ITEM ON THIS AGENDA IS SUBJECT TO
MODIFICATION AT THE MEETING.***

CALL TO ORDER

Roll Call:

**Douglas Dunn – Chair, Present
Sylvia Anabel, Present
Tom Carlson, Present
Larry Cummins, Present
Michael Holland, Present
Charles Howard, absent**

City Staff

**John Charley, Community Development Director, Present
Mark Langlitz, City Attorney, Present
Bob Mesquit, Building Inspector, Present**

CALL TO THE PUBLIC – Any member of the public may speak about Board of Adjustment Issues NOT on this agenda. **No members of the public requested to speak.**

NEW BUSINESS

Item 1. Appeal by Frank Kiman of the Decision of the Design Review Board dated April 7, 2010 in case no. 10-007, regarding appellant's Application for approval of two commercial signs for the High Desert Inn located at 8 S. Naco Highway in the Historic District of downtown Old Bisbee.

- A. Call of the Docket: Summarization of the issues and relevant data by the Planning Director or his designee.** Mr. John Charley read the docket based on the decision of the Design and Review board meeting of April 7, 2010. The DRB recommended approval of the application with the condition that the historical language on the signs be removed. Appellant Frank Kiman is appealing the decision based on City of Bisbee zoning code does not prohibit the historic language on signs and selective enforcement. Commissioner packets contain the Design Review Board Application, Minutes of the April 7, 2010 DRB meeting and a copy of the Appellants appeal.
- B. Presentation by the Appellant:** Mr. Frank Kiman, spoke to the Board stating he and his partner did not own the building but owned the business that functions in the building and have for the past six months. Mr. Kiman feels that he has done his due diligence on the sign and states that is the reason he wishes to appeal. He continues that at the last DRB meeting City Attorney Langlitz cited many codes and copies of those codes were not provided so he contacted Mr. Langlitz for copies of the codes in question and has brought copies for the Board members this evening. Mr. Kiman states that the signs were existing and weathered and unrepaintable. He contracted with a graphic designer to repaint the signs and to incorporate the information on the historical plaque on the building. He states that through his research he learned that the date on the building was not accurate and that he found a newspaper clipping to back up his research. He continues to state that he then chose to incorporate the new date on the sign for a couple of reasons. Because we are proud of this building and to elevate any confusion for people looking for us. Make sure that people understood what the building was. I did not believe I needed to apply to do what I had done as I was not putting up a new sign. I do believe I am well within my rights to do what we did, as we did not put anything up on the signs that were not already there. I feel justified with our intentions and feel that the judgment is arbitrary. Mr. Kiman stated that lastly I do believe there should be guidelines for people in our community wanting to do signs. Please approve our sign as it is.
- C. Comments by other persons in favor of the Appellant's position.** There were no comments at this time.

- D. Comments by other persons opposed to the Appellant's position. The Planning Director or his designee may respond to the substance of this appeal at this time.** City Attorney Mark Langlitz spoke to the Board stating he would like to hand-out zoning code regulations and a copy of the standards for rehabilitation of public and historic building from the Secretary of the Interior. Attorney Langlitz begins with stating that the problem would have been alleviated if the appellant had come to the Community Development Department in the beginning and filled out an application for the signs. That the issue arose when the Appellant was contacted by the office of Community Development that an application was needed and that the application needed to go before the DRB for approval. It was at the first DRB meeting the issue of the language in the middle of the sign became problematic. Attorney Langlitz made note to the Board that the DRB did approve the sign with the exception of the language in the middle of the sign. This language is the discrepancy, as it refers to the date of the buildings existence. "It was that the DRB appeared to have a problem with." To start we must take a step back, states Attorney Langlitz, and look at codes 7.2.2 Signs exempt, Letter B, Historic designation plaques contain building name, date and a brief description of the property. The Appellants building currently has a historic plaque, which is permitted by the City of Bisbee. The two types of signs submitted in the application do not comply and are not historic plaques. So they are not exempt from sign requirements. There is not authority for the DRB to approve an application for historical information that is not consistent with the plaque. Secondly if the board would look at the codes numbered 7.5 the relevant language says: the DRB has the authority to provide approval for sign applications which are consistent with requirements of this article. The DRB has no authority to approve those that do not meet the standard. Moving on to section 3.5.3 DRB shall be guided by the design guidelines and standards of the Secretary of Interior. Again there is no authority for the DRB to approve. The list of criteria for the standards from the Secretary of Interior state, historic character of property shall be retained and preserved. By taking information and putting it on a sign you have violated this. Each property shall be a physical record of time, place and use. "You don't put a sign up saying this is what it was at this point in time". This creates a false sense of historic development. The dates on the historic plaque and on the Appellant sign are in dispute. A historic plaque in a historic district must be issued by a bonified organization. Putting up your own sign is detrimental. If the City of Bisbee were to allow this the City would look like Tombstone. The Appellant can use this information on advertising, handouts and on a sign on the inside of the building, not on the outside. In closing Attorney Langlitz requested that the Board of Adjustments protect and preserve the nature of the Bisbee Historic District. These guidelines were put into place to keep Bisbee from looking like a Disneyland version of Bisbee. "If we allow this you can see that any building can advertise whatever use will help them commercially".
- E. Rebuttal by the Appellant.** Frank Kiman addresses the Commission, stating that he has taken an enormous amount of care of the building keeping it exactly the way it was. "I have done my due diligence, the date change was meant to clarify

not to confuse anyone. I take these comments personally insulting and I find the reference that I am creating the downfall of Bisbee”. I would not dare to do anything that would comprise that building”. The rules are open to interpretation. There is a valid concern about create commercial false historical value. I thought that I was not taking down an old sign I was doing something that was pre-existing. I was not trying to get by with anything or try to hide I thought I did not need to fill out an application. I was trying to be accurate and to clarify when I found a photograph in 1918 the building was not there. The sign is not an historical sign and it was never intended to be it is a commercial sign. You can't read the historical purpose on the sign if you are across the street. I did not do this with any other intentions. Thank you.

- F. Closure of the comments from the public.** Commissioner Mike Holland asked a question of the appellant. “Do you know who put the historical plaque on the building? Frank Kiman states that I did try to find out, everybody in town I asked had a different answer. Apparently there were two series of signs. John Charley asked to clarify and states that the City’s research indicates that these plaques were placed on historical building in conjunction with a walking map. Mr. Charley further states it is unclear whom the organization was that did this and if plaques went through SHPO, This was more than 20 years ago. Commission Holland then asked the City Attorney where is the language that refers to historic language being accurate. Commission Holland continues that what this is all about and it is less about the accuracy of the particular information and reaching past what the regulations say. I don't accept that as being the same or as important as an applicant who is trying it comply with city regulations. When every thing is the sign is ok but that language. I feel the argument is not backed up. That is my position on this.

Attorney Langlitz rebuttal asks the commissioner to look again at section 3.5 and states that if a sign is going to display historical information it is defined as a historic designation plaque. The Design review board does not have the authority to approve the sign in this instance. The applicant circumvented procedure. The Chair recognized the Appellant Frank Kiman. Mr Kiman states that 5.3.6 Historic definitions, #4 contributes information , I worked with what I had, I did not do anything out of ignorance I repaired a sign that had always been there. I am relaying on this board to make a fair and reasonable judgment and not assign blame.

Chairman Dunn asked if the Appellant would be willing to alter the sign, is that something you are willing to do?

Frank Kiman states I would prefer not too as this would cost me more money and it is a matter of principal for me. I don't think there are any dark motivations. I was not doing anything unscrupulous.

Mr. Charley requested to make note that the DRB recommendation was to approve the sign as is with the removal of the language of the date and use of the building.

Chairman Dunn then read the responsibility and duties of the Board.

Attorney Langlitz offer further information on responsibilities of the Board.

G. Discussion of the issues among the Board members. There was not more board discussion at this time.

H. Call for motion and decision by the Board.

Motion made by Commissioner Mike Holland, I move to reverse the decision of the Design and Review Board and leave the language on the sign, Second by Chairman Dunn.

Roll call vote: Commissioner Anabel, N Commissioner Carlerson, N Commissioner Cummings, N Commissioner Holland, Y Chairman Dunn, Y

Motion fails on roll call vote of 3 nea's to 2 yea's

Motion made by Commissioner Anabel; I move to affirm the Design Review Board decision on case number 10-0007. Second, Commissioner Cummings.

A roll call vote was taken; Commissioner Anabel Y, Commissioner Carlerson Y, Commissioner Cummings Y, Commissioner Holland N, Chairman Dunn Y,

Motion passes 4-1

COMMISSIONER'S COMMENTS:

ADJOURNMENT:

Motion made by Commissioner Anabel and seconded by Commissioner Holland to adjourn the meeting at 6:47P.M. Motion passes unanimously

Anyone needing special accommodations to attend this meeting should contact Melissa Hartman (520) 432-6016 at least twenty-four hours before the meeting.