

MINUTES
BOARD OF ADJUSTMENT – PERMIT DENIAL MEETING

July 11, 2018

7:00 p.m.

Commission Chambers
22 South Beach Street
Ormond Beach, Florida

I. ROLL CALL

Members Present

Stan Driscoll
Brian Nave
Tony Perricelli
Roger Strcula
Dennis McNamara

Staff Present

Steven Spraker, Planning Director
Tom Griffith, Chief Building Official
Ann-Margret Emery, Deputy City Attorney
Melanie Nagel, Minutes Technician

II. APPROVAL OF THE MINUTES

A. June 6, 2018 Minutes

Mr. McNamara asked if there were any corrections to the minutes. Mr. McNamara stated that on page 7, the 3rd paragraph, it should state the 2017 Florida Building Code, the 6th Edition. There being no other corrections, vote was called, and the minutes were approved.

III. NEW BUSINESS

Mr. McNamara stated that there is a different attorney representing the board this evening, and asked Mr. Abraham McKinnon to introduce himself.

Mr. Abraham McKinnon stated that he is a local attorney in Ormond Beach. He has been asked to assist the board in their deliberations of this evidentiary matter before them. Just for a brief overview, tonight the board will be considering a denial of an application for a building permit. In doing so, you will follow an evidentiary process commonly referred to as a quasi-judicial process. The staff will present its evidence. When staff is done, as a board you have the authority to ask questions of staff and the evidence they presented. When staff is finished, then the applicant will have an opportunity to present their evidence. Again, the board shall have an opportunity to question the applicant on any evidence presented. When the applicant is finished, then typically the chairman opens it up to the public to come forward and either speak for or against the matter. Following public comments, it will come back to the applicant and the staff. At that time, Deputy City Attorney, Ms. Emery, may do a statement to sum up the City's position, and the applicant

will have the same opportunity and then the board will have the opportunity to deliberate and make your determinations. Mr. McKinnon stated that he is here to assist the board with any questions that they may have regarding the process and the law. Again, this is quasi-judicial, which means the board will be hearing evidence and applying the law to those facts. The board is not legislative; in other words, the board is not to re-interpret the ordinances or interpret them in a way that members would like them if they're clearly stated. So please ask any questions that you have and good luck.

A. Case No. 2018-086: 1001 North U.S. Highway 1, Appeal of permit denial of the Chief Building Official

Mr. Tom Griffith, Chief Building Official, City of Ormond Beach, stated the case before the board is an appeal of the permit denial of building permit number 18-2996. Mr. Griffith stated that the City of Ormond Beach has jurisdiction of this property based on the Interlocal Service Boundary Agreement and he will be presenting a timeline of events. On December 30, 2017, construction of the billboard sign was noticed, and on January 2, of 2018, a Stop Work Order was posted on the billboard for construction without a permit. Mr. Griffith displayed a photo showing the Stop Work Order posted on the billboard. On February 26th, 2018, a permit application and drawings were submitted for an after-the-fact permit for the construction of a sign. On March 14, 2018, the city plan review comments were issued, and those comments stated that based on visits to the site by neighborhood improvement, the chief building official and planning staff, it was our opinion that the billboard has been relocated and that the entire structure is new. Section 3-43(3)(e) of the Land Development Code states that if more than 75%, or the limitation as established by the current state statutes, of a billboard is destroyed by any cause, then the billboard sign or structure shall not be permitted to be repaired or replaced. Based on the information that is available, it appears that more than 75% of the billboard was removed then reconstructed a few feet in front of the old billboard.

Mr. Griffith displayed a photo immediately after Hurricane Irma from September of 2017. He explained that the eastern portion of the sign is behind the building and behind the first bollard shown. The west portion is behind a large Coquina boulder, and there is lawn space between the pavement and the sign. Mr. Griffith displayed an aerial of the new sign. It was noted that the first bollard is behind the sign, and the new sign is lining up with the second bollard. The corner of the sign is now close to the Coquina rock, and you don't see the lawn space that was present in the previous photo. Mr. Griffith displayed a photo taken underneath the sign. There are new poles, and there is disturbed earth. The reddish color poles are the poles from the former sign that's now being used to brace the new sign. Mr. Griffith displayed side-by-side aerial views of before and after. There is lawn space between the sign and the pavement, and the sign is behind the first bollard. In the more recent photo, the sign is lined up with the second bollard, and there is no space between the pavement and the sign. Mr. Griffith also displayed street view before and after pictures. The old sign is behind the first bollard and the new sign is at the second bollard.

Mr. Griffith stated that on April 3, 2018, there was a meeting between the applicant, the property owner, their attorney, and city staff. There was no resolution at that meeting. Mr. Griffith stated that on April 24, he formally issued a denial of the permit with a letter. On May 2, 2018, the property owner provided a letter requesting an appeal. The City of Ormond Beach recommends the finding that the city does have jurisdiction to regulate the subject sign at the subject property location. The subject billboard is nonconforming as billboards are prohibited under the City of Ormond Beach Land Development Code Chapter 3, Article IV, Section 3-42. The subject billboard lost its legal non-conforming status when it was destroyed, as defined by the City of Ormond Beach Land Development Code Chapter 3, Article IV, Section 3-43 and Florida Administrative Code 14.10. The decision of the Chief Building Official to deny the permit application to reconstruct the billboard should be upheld.

Mr. Nave asked for clarification, that there are no billboards allowed anywhere in Ormond Beach for any purpose. Mr. Griffith stated that was correct.

Mr. Driscoll stated that it's a legal question. Regardless of what this board might do, isn't there still an unresolved issue of the state statute?

City Attorney Emery stated that no, there isn't. This issue can be handled on a local level, and we're talking about enforcement of our Land Development Code. So our ordinance or our code refers to the state standard. Our standard is actually more lenient than the state standard. Our Land Development Code states that if it is destroyed by any cause, 75% of the billboard has to be destroyed. The state standard is actually a lower standard. And actually, this billboard is located in the unincorporated county, but our Interlocal Agreement with the county allows us to apply our codes. Incidentally, billboards aren't allowed in this area in the county, and our standard is actually more lenient than the county. When I say more lenient, the city has a 75% standard of destruction, the county is 60%.

Mr. Nave asked if Attorney Emery had the county code that prohibits billboards. Attorney Emery stated that she did have the information, but did not include it in the packets. Mr. Nave asked to take a look at the county code.

Mr. Driscoll stated that the city is 75%, the state is 50% and the county is 40%. Attorney Emery stated that the county is 60%.

Ms. Emery stated that she is showing this sign as an off-premise sign. This is the U.S. Highway 1 area, and is not an area where they would be permitted. It is part of the non-conforming county. Mr. Nave questioned if this is a non-premise sign because it is for a business that is not there. Ms. Emery stated that was correct.

Mr. Perricelli confirmed with Mr. Griffith that the sign was 100% totally destroyed and rebuilt in a new location. Mr. Griffith stated that was correct. It was damaged, taken down and put up new, about 4' in front of where it had been.

Mr. McNamara asked if there were any more questions for Mr. Griffith or Attorney Emery. Hearing none, Mr. McNamara asked the applicant to speak.

Ms. Sandra Kanemitsu, applicant, stated that the property at Tomoka Boat Club was developed by her father in 1960, and it's been serving the community of Ormond Beach and surrounding area for nearly 60 years now. They have always maintained proper permits and been in compliance. She has records of this billboard permit dating back to 1992, possibly before then. She spoke with the state, and it's a conforming sign in accordance with their guidelines. It wasn't until the ISBA was adopted, at which time it came under the City of Ormond Beach jurisdiction. Ms. Kanemitsu stated that in February 2014 she had contacted Ms. Becky Weedo, with the city, and had asked her questions about maintaining the sign, and that the State had told her that she could enlarge it. They could actually make it one-third bigger, and she had been getting requests from other potential advertisers wanting to use the space. So she had contacted the State, and they said yes, she can make it one-third larger. But then she double checked and again, trying to maintain compliance and conforming, contacted Ms. Weedo, and Ms. Weedo had told her that she can maintain the existing board. There was no mention in her email of anything as far as the 75% ruling or even permits being required to maintain it.

Ms. Kanemitsu continued that there was some damage from the hurricane, although it was not 100% destroyed. In fact, she believes there was only one pole that was damaged and leaning. After the hurricane, she contacted a licensed contractor in the City of Ormond Beach. It stated on his website that he will make sure he is compliant with municipal city codes and help get the right permits for a new sign. So, when hiring a licensed contractor who's been given the authority to permit and licensing to do business in the city, she felt that she was doing the right thing. She specifically told him not to move the poles and he said there was no permit required to do what he was doing. Ms. Kanemitsu said that she wanted to be in town during the construction. There was a permit for the sign and she didn't want that lost. She didn't want poles moved. The contractor told her, "No, no, no. You don't have to move out here. You're in good hands. This is an easy job for me. We do this work every day." She hired him because she had seen his trucks and signs and business being operated all over the city. So because she is dealing with some personal issues, she trusted that hiring a licensed contractor, she could trust that he was going to have her in good hands and do the right thing. In fact, she still maintained that she wanted to come out here, and she sent an email saying, "Let me know when you're going to begin construction," and her next email from the contractor had pictures showing the completion of the project, requesting the balance due.

Ms. Kanemitsu continued that apparently the stop work order was placed on January 2nd, unknown to her, and on January 3rd she was contacted by the contractor requesting a wire transfer for the balance due, which she did because all she saw were the pictures showing that it was completed. She could not see from his pictures that it had been moved. She could not see that there was a stop work order placed. Ms. Kanemitsu stated that she was going to fly to Ormond Beach for the April meeting. Again, the contractor said, "Stay away. I've got my attorney coming in to handle this." But Ms. Kanemitsu told Chris Mason that she wanted to be informed and to put her on a conference call, and she attended the meeting that way. So at this point she felt that the stop work order was placed on the contractor to make things right. Contractors are licensed and allowed to do business in the city because they know the codes and they know what permits are required. It is not for

the consumer to know that when they hire a licensed contractor. They depend on the licensed contractor to have their best interest and to do what's right. So at this point, she feels like she is the victim in this. She has lost her income and her livelihood that she depends on, and the contractor is being allowed to continue to do business in this city with no consequences. Meanwhile, Bear Creek, who has been in this community and advertised on that board for over 25 years, is also suffering. Bear Creek is a victim and Tomoka Boat Club is a victim from a contractor that states he's licensed to do business and will make sure everything is compliant and proper and has told the applicant that she was in good hands and now she is losing her livelihood.

Ms. Kanemitsu again stated that stop work orders should be placed to make things right. She feels that it should go back to the contractor to resolve this and make it right. But don't take her livelihood away, please. There are billboards up and down US 1 and there are private signs on the neighboring lawns that are more unsightly than this board. This sign has been an icon in this city for 25 years and has always been conforming. So, if there is any way that the stop work order can be made to correct things, please give grace upon this and make the contractor do this right. The sign was moved barely four feet. It was moved onto the same existing property. She is not taking away from anybody else's property. She hasn't affected anyone with the four-foot movement. If anything, the contractor continues to tell her that the sign is better, it's stronger, it's safer.

Mr. McNamara stated that he is very sympathetic with Ms. Kanemitsu's story. It seems like she got caught between a few different things. My only question is the contractor you hired, is he a sign contractor?

Ms. Kanemitsu stated yes, and he says he's been doing business in this city for 35 years. He should know what the code is. On his website it says, "We will make sure you are compliant with the municipal codes as well as the right permits for your job." And this is why she hired him. The measurement of that sign has always been 48 feet wide. He constructed it at 42 feet wide. And then when he was going to put up the vinyl that Bear Creek paid for, the same 48-foot vinyl that they've always been ordering, it didn't fit. And he swears to her that it was 42 feet. She doesn't know where he got his measurement from.

Mr. Perricelli stated that the board is really sorry that this happened to Ms. Kanemitsu but as the owner, there's a responsibility that you have to make sure he's doing things right within the code, and you have to watch him also. Somebody has to see what he's doing. You knew that the sign was 48 feet, and he's doing it at 42. The sign was totally destroyed 100% and moved.

Ms. Kanemitsu stated that they didn't take measurements of the billboard until the 48' vinyl didn't fit. The basic foundation of the sign is still standing. Mr. Perricelli stated that the problem is with the contractor, not with the city.

Mr. Nave asked if it was Ms. Kanemitsu's contention that the sign was destroyed in the storm. Ms. Kanemitsu stated that only one pole was destroyed. Mr. Nave

asked if she knew the date of the storm. Ms. Kanemitsu stated that it was in September, 2017.

Mr. Driscoll stated that Ms. Kanemitsu had stated that there was a stop work order and subsequent to that, the contractor had asked for additional money. Ms. Kanemitsu stated that one day later, he called her and required a wire transfer.

Mr. Perricelli asked if there was only one pole damaged, why did the contractor take the whole sign down? Ms. Kanemitsu stated that he insisted that it was damaged. He probably didn't want to get down in there where the original poles were. It was easier for him, and he just took the easy way out and took advantage. Again, she is the victim in this. They have always been compliant. They have always tried to do what's right.

Mr. Nave stated that there is a picture from 9/20/2017. Was the storm before or after that? Ms. Kanemitsu stated that it was the week before. The pole on the right is the only one that's really leaning. Mr. Nave asked if in our code, does it actually state if a sign is destroyed for any reason.

Attorney McKinnon stated that code includes any reason. It could have been accidental, it could be voluntary, or it could be from a storm. Mr. Nave stated that if the poles broke and fell down, would that be considered destroyed, or did they just fall down. What is the legal consideration? Mr. McKinnon stated that is the fact finding that the board has to do.

Mr. Nave stated that he sees evidence that the sign was not destroyed during the storm. He sees evidence that the sign was damaged. So now we have to decide if the contractor moving it forward five feet is considered destroying the sign or repairing the sign. That's what we have to decide.

Attorney McKinnon stated this would certainly qualify under the city's ordinances as destroyed. Contractor's removal and relocating of the sign would be destroyed because the ordinance says any cause, destroyed by any cause, and that would include the voluntary actions of the contractor. Just for the record, that's 3-43, subsection 3e of Ormond Beach's Land Development Code.

Mr. Driscoll stated that the contractor, Kenco Signs, has been around a long time. They know when permits are required and when they're not. They also know about all the different ordinances dealing with damaged signs. So the applicant has been harmed here. In his opinion, he thinks the applicant has been harmed, but there's nothing the city can do because it is black letter law. The code says if it's destroyed by any cause - hurricane, fire, flood, or a contractor that knocked it down and he shouldn't have done that - there's nothing we can do.

Ms. Kanemitsu stated that the original foundation is still standing which could constitute 25% or more. Can we build from the original foundation? Mr. Nave stated that the sign is gone. It's not in the original foundation. It's all new.

Ms. Kanemitsu stated that if the contractor makes it right and works from the original foundation, that being more than 25% of the pre-existing structure, and

builds up again from there, then we could salvage this. Mr. Nave stated that if the contractor hadn't cut the poles, you might have had an argument. But since he cut the poles off and destroyed the original sign, there is nothing we can do.

Mr. Strcula stated that the board would like to find a means where they can help the applicant on this issue. But, the contractor removed the existing billboard without the applicant's consent. He cut the existing poles. If he had left the poles there, then that would be a matter that we would have to consider. By cutting those poles, he cannot structurally attach anything to those poles for the support.

Ms. Kanemitsu stated that maybe the contractor can find a way. I mean, the whole base foundation is there. There's concrete footings. The poles are still there. There's no structure without the foundation. The foundation still exists.

Mr. Strcula questioned staff about the section in the code where it talks about the 75% limitation, and wanted to know if that is the structural limitation or evaluation. Attorney Emery stated that it would be structural because if it was evaluation, it would state so specifically.

Mr. Nave asked Attorney McKinnon if he agreed with that. Attorney McKinnon stated that he did and, in fact, if you used the state statute as just a guidance on it, it says 60% of upright support of the structure. So now you're looking at the three remaining posts, and those are all cut off well below the ability to create the sign. So that certainly would be consistent with staff's interpretation.

Mr. McNamara stated that there had to be a big dollar difference between repairing one pole and building a new sign. That would ring a bell in his mind if a contractor approached him. It's like buying a bicycle or a car. There's a big difference. Ms. Kanemitsu stated that she wasn't aware of the 75% guideline. Again, he's permitted and licensed to do business. He's been in business 35 years in this city. And he's a sign specialist.

Mr. McNamara stated that when he visited the site, it looked like they had a drilling rig out there to drill three-foot diameter holes in the ground and set the concrete in and the poles. The poles are eight inches. The old poles are only seven inches. So it's designed up to the new wind loads. Ms. Kanemitsu stated that is what the contractor tried to tell her, that he was making it better and stronger, and bracketing and bracing it.

Mr. Perricelli stated that it doesn't make any sense that if it was only one pole damaged during the hurricane that this sign contractor took the whole sign down. He wouldn't take this whole sign down on his own just to redo it all. He moved it to a new location, and the city doesn't allow any billboards in the city limits.

Mr. McNamara asked if the sign contractor was in attendance tonight. Ms. Kanemitsu stated no, and he won't return her calls, and neither will the attorney who attended the first meeting with city staff.

Mr. Driscoll asked if there is anything that the city can do in its ordinances. It would appear that this Kenco Signs contractor knew better. Is there any action that the

city can take against Kenco Signs for putting up a sign without a permit, with full knowledge that they needed a permit, or any action the city can take against Kenco Signs?

Attorney McKinnon stated that there are things that can be taken against contractors who commit violations. Actually, there's a state recovery fund that you can apply for. Contractors, if they are licensed, are regulated by the Department of Business and Professional Regulation. They will hold contractors responsible for things like this and the city has probably experienced that, roofers and all kinds of contractors who do unpermitted work and other things that leave property owners and homeowners in hardships. I would encourage Ms. Kanemitsu to talk to legal counsel because she would have remedies against this contractor. And if they have insurance, then you could be made whole by insurance, possibly, for your losses. Those are things that can be done against the contractors who violate those types of stop work orders, who do construction which is unpermitted.

Mr. Driscoll asked if there is anything the city can do. Mr. Griffith stated that the contractor has a state license and he can be reported to the Contractor Licensing Board, and there may be a local county license involved.

Mr. Nave asked if the contractor had applied for the sign permit before building the sign, someone would have definitely caught that, and it wouldn't have been available. Mr. Griffith stated that the permit would have been denied.

Ms. Kanemitsu stated that the contractor would have been properly informed about the code. Mr. Nave stated that is correct, but the point the board and staff is trying to make is that the sign contractor should have applied for a permit. The sign contractor should have known. You want to be made financially whole, and there are other recourses for that other than what the board can do for you. There are other avenues available for you to pursue which I hope you do.

Ms. Kanemitsu asked that there was nothing that can be done. A stop work order is placed so things can be remedied and done right. And again, there are some existing poles there. There's a foundation there. Can we make him use that foundation and make it right somehow?

Mr. Driscoll stated that there is nothing the board can do, but there are things that the applicant can do. And he would suggest that she seek legal counsel and see if there is a remedy out there to be made whole from the sign contractor or his insurance agent. The city can't help you, but maybe legal advice could help you. And you might get out of this fine. You won't have a sign, but you might be compensated for the loss of your sign.

Ms. Kanemitsu stated that she was told that she should get an attorney. And now she will have no funds to even pay an attorney. The loss of that income is really causing a hardship. She was wondering if there was any way to request any kind of postponement, if there's anything an attorney could review that could find a loophole of some kind. Ms. Kanemitsu stated that maybe because there's 25% or more still standing in that foundation, if that's left to interpretation or if there could be an evaluation, maybe there's something there that she can grasp onto.

Mr. Nave asked the applicant if she wants this so much that she will hire an attorney and an engineer to check it out.

Attorney Emery stated that this has been going on for quite some time. The Stop Work Order was placed in early January. The property owner does live in California. We have been trying to schedule this meeting for quite some time, and we have scheduled it for this evening for her convenience because she was going to be in town. So we have been waiting for her to have this hearing. So she absolutely objects to having to do this over and postpone it. We're at the end here.

Ms. Kanemitsu stated that she thought she was going to be able to get hold of an attorney; at least the attorney that was here at the April meeting and the contractor. Mr. Driscoll stated that would be Kenco's attorney, and he believes the consensus tonight is that she needs her own attorney. Do not use Kenco's.

Mr. McNamara stated that this is a public meeting. Is there anyone else from the public who would like to speak? Hearing from no one, Mr. McNamara closed the public hearing, and called for summaries from both sides.

Attorney Emery stated that she is not going to belabor this. She believes Mr. Driscoll probably said it best. It's sort of a black letter law part of our code, and she doesn't believe there is really a dispute with the facts. And just to clarify one matter, the applicant stated that she had a billboard that was combined for Bear Creek and her own business. Nothing in this would preclude her from having her own sign to advertise whatever she wants; her own site sign that would comply with the code. So, although a billboard is non-conforming in the city, she still could have a site-specific sign. And just generally, Attorney Emery wanted to state that the city codes that prohibit rebuilding of destroyed non-conforming signs are presumptively valid and enforceable. And in this case in particular, how they are destroyed either by storm, fire, or the owner's own construction means or demolition, it doesn't matter. It's not relevant, and our Land Development Code does state by any cause. And in this case, Attorney Emery believes that there was 100% destruction, and she doesn't think there's any dispute of that.

Attorney Emery continued that when you have a legal non-conforming sign as this sign was, and the applicant has had this sign since at least 1992, the city cannot actively go out once it makes a prohibition of billboards or changes its sign code and make a determination billboards might not be the best for our community. The city doesn't go out and tell everyone who has billboards that they must remove them. But the purpose of the sign code prohibiting a rebuilding after destruction is that there's eventually an end to the nonconforming structure and does not allow an indefinite life to these structures. A nonconforming structure is not supposed to have an indefinite life. Another means could be if there is a business and it has a nonconforming sign and it goes out of business and it's abandoned, the owner of the new business can't say, "I want the exact same sign," if it's not conforming.

Attorney Emery stated that there are a lot of times when this has been difficult, like the 1998 fires saw a lot of billboards that were destroyed on I-95. But because of the Highway Beautification Act, those billboards couldn't go back up. They were

in violation of the Act. And in this case, Attorney Emery stated that she doesn't think the applicant did anything wrong. Maybe a miscommunication with the contractor; but at the end of the day, the billboard was destroyed. And they've had several decades of having the billboard, and I think that's a good thing but unfortunately, it's not meant to be indefinite. It is a nonconforming structure. With that being said, we would ask the board to consider the findings above. Attorney Emery is not going to review all of the codes, but will answer any specific questions.

Mr. Perricelli stated that he thinks the board has heard enough information to make a decision.

Mr. McNamara asked if there were any other questions for Attorney Emery. Hearing none, he asked the applicant if she would like to speak one more time.

Ms. Kanemitsu stated that Attorney Emery was saying that nonconforming is not meant to be indefinite but she doesn't know that she agrees with that; otherwise, there wouldn't be the 75% ruling in the code that it is allowed to construct, reconstruct and repair up to 75%. So that means if you're maintaining one pole or two poles, you can always maintain a nonconforming sign indefinitely. It is an ongoing indefinite source of income as it's been for many, many years, and it can always be there that way under those non-conforming guidelines. If you can repair up to 75%, that's a significant amount. The pictures show that from the storm, 75% was not destroyed. It was the contractor that came in and made his life easier to do a quick and easy job. He's been given permission to do business in this city and says that he's going to abide by the codes and compliance. He has been in business for 35 years. Ms. Kanemitsu should have been able to trust that he's going to do the right thing. There was never any malice intended, again, on her part. She tried to do everything proper and right, hiring a licensed contractor. She could have hired some fly-by-night guy to come through and just do a repair. But she doesn't agree with the fact that a non-conforming sign will die, not under that code of 75% repairs allowed. And again, if there's any way that the existing foundation that still stands can be looked at as 25% and that somehow the contractor can be made to work with the foundation that's there, that's what she thinks is her way through this.

Mr. McNamara thanked the applicant for her comments. He opened discussion from the board.

Mr. Driscoll stated that he had a legal question. There's a structure up there now that's clearly non-conforming and erected without a permit. What happens to it? Who's going to bear the burden of removing that sign, and what are the procedures that the city has to enact to have the sign removed?

Attorney Emery stated that if the board upholds the decision of the building official, then that is a non-permitted structure, and it would have to be removed. And if it wouldn't be removed, then it would be subject to code enforcement.

Ms. Kanemitsu stated that earlier Attorney Emery had stated that she could have a sign advertising her own business. So she would think, at the very least, she should be able to use the structure to advertise her own business.

Mr. Driscoll stated that she already has a sign for her business. She would not be permitted to have more than one, on premise sign. Ms. Kanemitsu stated that the present sign doesn't state what they provide to the city.

Mr. McNamara stated that she would have to get with the building department and come up with a new sign.

Mr. Nave stated that the board has pictures of the signs dating past 2016, and they're all Bear Creek signs. But the real subject of what Ms. Kanemitsu's question should be is if she wants to try to use that structure for a sign for your property, and that's a question for the building department and another permit. That's not a question for this board and this particular case. The problem that she has here is with her resolution and making this whole, with the board. It's going to be with an attorney or constructing a different sign there.

Ms. Kanemitsu asked if the board couldn't find any way to let her work with the foundation that's still existing. Mr. Nave stated that he questioned putting this meeting all by itself on a separate evening, and that was done for the applicant's convenience. And she should have brought an attorney and been prepared, and it just didn't happen. She is sorry.

Mr. McNamara asked the board members if they had any further discussion on the sign. In his opinion, there is no sign left.

Mr. Nave stated that the sign was not destroyed by the storm, but it was destroyed by the contractor. The sign is destroyed and unfortunately, the code says for any reason, and that means contractor too.

Mr. Strcula stated that he agrees with that.

Mr. McNamara called for a motion.

Following discussion, Mr. Driscoll moved that the decision of the Chief Building Official to deny the permit application to reconstruct the billboard be upheld. Mr. Perricelli seconded the motion. Vote was called, and the motion unanimously approved (5-0).

Mr. McNamara stated that the Building Officials decision has been upheld, and the applicant should check with her sign contractor to rectify the situation.

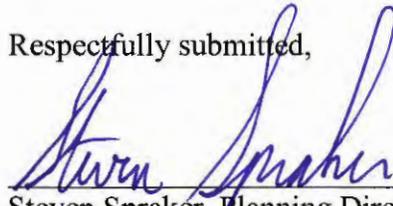
IV. OTHER BUSINESS

Ms. Nagel reminded the board of their regular meeting on August 18.

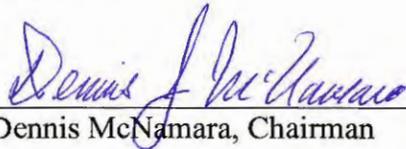
V. ADJOURNMENT

As there was no other business, the meeting was adjourned at 8:00 p.m.

Respectfully submitted,


Steven Spraker, Planning Director

ATTEST:


Dennis McNamara, Chairman

Minutes prepared by Melanie Nagel.

Pursuant to section 286-0105, Florida Statutes, if any person decides to appeal any decision made by the board of adjustment with respect to any matter considered at this public meeting, such person will need a record of the proceedings and for such purpose, such person may need to ensure that a verbatim record of the proceedings is made, including the testimony and evidence upon which the appeal is to be based.

All persons appealing to the board of adjustment must be present, or represented at the public hearing scheduled for the consideration of his request. Failure to be present or to be represented, results in the automatic refusal by this board to grant permission for any variance. In order to allow the meeting to proceed in an orderly fashion, the board, by motion, may limit the time allowed for remarks concerning a specific agenda item to a maximum of thirty (30) minutes for city staff, the designated representative of the applicant and the designated representative of any organized group and to five (5) minutes for members of organizations and other individual speakers. Additional time shall be allowed to respond to questions from the board.

Persons with a disability, such as a vision, hearing or speech impairment, or persons needing other types of assistance and who wish to attend city commission meetings or any other board of committee meeting may contact the city clerk in writing, or may call 677-0311 for information regarding available aids and services.