

**TOWN OF ELSMERE
BOARD OF ADJUSTMENT
MEETING MINUTES
February 27, 2018
6:30 P.M.**

PLEDGE OF ALLEGIANCE:

CALL TO ORDER:

ROLL CALL:

CHAIRMAN	JAMES PERSONTI	PRESENT
BOARD MEMBER	JOHN ACTON	PRESENT
BOARD MEMBER	PATRICIA BOYD	ABSENT
BOARD MEMBER	RON RUSSO	PRESENT
BOARD MEMBER	JOHN SMITH	PRESENT

PUBLIC COMMENT:

None

APPROVAL OF MINUTES:

Minutes from the January 23, 2018 Board of Adjustment Meeting

ACTION: Board Member Smith made a motion to approve the Minutes from the January 23, 2018 Board of Adjustment meeting. The motion was seconded by Board Member Russo.

VOTE: 4 in favor and 1 absent Motion carried
Personi – Yes, Acton – Yes, Boyd – Absent, Russo – Yes, Smith - Yes

OLD BUSINESS:

None

NEW BUSINESS:

Review Petition 18-01 Tax Parcel # 1900-800-153

The appellant, Kevin Naughton, discussed the appeal application and stated that he had received a violation for junk being stored in the yard. Mr. Naughton explained that since his mother passed away, he has been cleaning out the house and storing furniture under the deck for his family to pick up or to get rid of at the community clean up in the spring.

Mr. Naughton further stated that he is only living there temporarily and he has not thrown the items away until he gets permission from his family. In the meantime, he has done his best to clean it. Mr. Naughton requested that the Town come out to the property to advise him on what items can be stored outside and what must be thrown out.

Board Member Acton asked why the items are stored outside and whether there is space inside to store them. Mr. Naughton stated that he has put the items outside for his family to take while he is clearing things out of the house and that there is not really any space in the house.

Chairman Personti asked whether the property looks the same in the photo taken on 1/18/2018 as the initial photo. Code Enforcement Officer Melissa Faedtke stated that there was no difference and also presented two photos taken earlier in the day on 2/27/2018. The photos were subsequently marked as Exhibits 18-01R and 18-01S.

Mr. Naughton requested an additional day to throw out the items being stored outside.

Board Member Russo stated that while the Board is in a position to waive the fine, he does not feel that they are in a position to waive the required timeline to bring the property into compliance.

ACTION: Board Member Smith made a motion to deny Petition 18-01. The motion was seconded by Board Member Acton.

VOTE: 3 in favor, 1 opposed, and 1 absent Motion carried
Personti – Yes, Acton – Yes, Boyd – Absent, Russo –No, Smith – Yes

- Board Member Acton stated that he voted to deny the application because it is clearly a violation and it looks bad for the neighborhood.
- Board Member Smith stated that he voted to deny the application because the appellant already had three days to clean it up.
- Board Member Russo stated that he voted to oppose the motion since he believes that the appellant is a reliable citizen who will clean it up within the next 24 hours.
- Chairman Personti stated that he voted to deny the application because it is a violation of the Code.

Mr. Naughton made a lengthy statement about issues in the neighborhood related to abandoned vehicles.

Town Manager Giles reminded the appellant that the code officers will be back on Monday to re-inspect the property and if it is not cleaned up, he will receive another violation.

Review Petition 18-02 Tax Parcel # 1900-400-447

The appellant, Vic Setting, questioned one of the dates listed on the repeat public nuisance violation (Exhibit 18-02T). A discussion followed about the date in question. Town Manager Giles stated that the violation date is correct; however, the date listed in the description was typed incorrectly. Mr. Setting stated that it is not possible for the violation to occur in the future. Board Member Russo stated that he does not understand why an obvious clerical error does not change the fact that the violation occurred in the first place.

Mr. Setting further questioned the violation for trash and mentioned that the trash on the ground appears to be minor (Exhibit 18-02L). Mr. Setting questioned the violation being issued on a Tuesday for the trash not being put out as trash is picked up on Thursdays and cannot be put out until Wednesday evening (Exhibit 18-02O).

Town Manager Giles asked Code Enforcement Officer Sabrina Allen questions about the procedure followed for issuance of the underlying violations that led to the repeat public nuisance violation. After having his questions answered, Town Manager Giles stated that due to procedures not being followed, the Town will withdraw the complaint.

The Board agreed to hear from residents who were in attendance and who wished to speak about property maintenance issues at the subject property.

Resident Maryann Goslin stated that weeds have grown to be a foot tall, she sees the trash in the backyard every day, the lid to the trash can is dangling, and an 18 wheeler was parked in the back for a while.

Resident Mary Armbruster stated that she can only see the front yard and that the grass has been nearly a foot tall on numerous occasions.

Mr. Setting stated that the tenants are scheduled to move out on March 15 and that they have told him they do not want to live in a neighborhood where they are being harassed.

Ms. Armbruster suggested that he screen his tenants better.

Town Manager Giles stated that aggressive enforcement is going to occur at the property and that it can get expensive very quickly.

ITEMS SUBMITTED BY CHAIRMAN AND BOARD MEMBERS:

None

PUBLIC COMMENT:

None

ADJOURNMENT:

ACTION: A motion was made by Board Member Russo to adjourn. The motion was seconded by Board Member Smith.

VOTE: 4 in favor and 1 absent Motion carried
Personti – Yes, Acton – Yes, Boyd – Absent, Russo – Yes, Smith - Yes

These minutes summarize the agenda items and other issues discussed at the February 27, 2018 Board of Adjustment meeting. Votes are recorded accurately. The audio tape(s) of this meeting will be available at Town Hall for a period of two years from the date these minutes are approved. The audio tape(s) may be reviewed at Town Hall by appointment and in accordance with the Freedom of Information Act.

JAMES PERSONTI, CHAIRMAN

PATTY BOYD, SECRETARY

UNAPPROVED