

**TOWN OF ELSMERE
BOARD OF ADJUSTMENT
MEETING MINUTES
August 22, 2017
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 May 23, 2017 Board of Adjustment Meeting

ACTION: Board Member Russo made a motion to approve the Minutes from the May 23, 2017 Board of Adjustment meeting. The motion was seconded by Board Member Acton.

VOTE: 4 in favor and 1 absent Motion carried

Personti – Yes, Acton – Yes, Boyd – Absent, Russo –Yes, Smith - Yes

OLD BUSINESS:

None

NEW BUSINESS:

Review Petition 17-09 Tax Parcel # 1900-400-088

Mitesh Desai, spoke on behalf of the applicant, and explained the applicant's request to upgrade the gas price sign at the Sunoco gas station with an LED lighted price sign. Mr. Desai explained that the issue is that the color of the light will be red rather than the white light that the Town Code allows and that the red light is the industry standard.

In response to a question from Board Member Smith, Mr. Desai stated that the sign will not flash other than momentarily when the price is changed.

Code Officer Melissa Faedtke stated that the Code Department does not have any issues with the petition.

ACTION: Board Member Smith made a motion to approve the variances requested in Petition 17-09 in order to install an LED price sign with red light. The motion was seconded by Board Member Acton.

VOTE: 4 in favor and 1 absent Motion carried

Personti – Yes, Acton – Yes, Boyd – Absent, Russo –Yes, Smith - Yes

Review Petition 17-11 Tax Parcel # 1900-400-557

Joselyd Nevarez, the property manager of the property located at 908 Kirkwood Hwy, spoke on behalf of the property owner and stated that she is requesting that the \$1,000 fine be waived for a violation of a repeat public nuisance. Ms. Nevarez stated that this is a rental property and that each of the previous violations that led to the repeat public nuisance were cured in a timely manner prior to the abatement date. Ms. Nevarez further stated that the first two violations were due to a tenant that has since been evicted and the latest violation for high grass occurred shortly after the new tenant moved in.

Board Member Russo inquired about how the Code Department handles a repeat public nuisance when a new owner purchases the property and whether the history of violations starts over when determining if the property is a repeat public nuisance. Town Manager John Giles stated that the violations start over when a new owner purchases the property.

Board Member Smith asked the applicant if they perform any inspections of the property. Ms. Nevarez stated that they comply with the town's required rental inspection which is performed by the town's code officers and do their own periodic inspections if they receive a complaint. She further explained that they do not normally do their own inspections on a regular basis and that it is something that they should probably start doing.

Board Member Russo asked for confirmation that a new tenant is in place. Code Officer Faedtke stated that the Code inspection has been done and the change of tenant has been verified. Board Member Russo stated that it appears that they have made a good faith effort to correct the situation and that he is comfortable with waiving the fine.

A discussion followed about future violations and the possibility of additional repeat public nuisance violations. Code Officer Faedtke stated that if a new code violation occurs within the next two months, then another repeat public nuisance violation would

be incurred and the fine would be \$2,000. Town Manager Giles stated that if the Board approves the petition, then he recommends that this violation is treated as the first one for the purpose of determining whether a future repeat public nuisance exists.

ACTION: Board Member Russo made a motion to waive the fine with the understanding that one violation has been assessed and two more violations within twelve months from June 13, 2017 will incur a repeat public nuisance violation. The motion was seconded by Board Member Acton.

VOTE: 4 in favor and 1 absent Motion carried

Personti – Yes, Acton – Yes, Boyd – Absent, Russo –Yes, Smith - Yes

ITEMS SUBMITTED BY CHAIRMAN AND BOARD MEMBERS:

None

PUBLIC COMMENT:

None

ADJOURNMENT:

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

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 August 22, 2017 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