

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

**PLEDGE OF ALLEGIANCE:**

**CALL TO ORDER:**

**ROLL CALL:**

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

**PUBLIC COMMENT:**

None

**APPROVAL OF MINUTES:**

Minutes from the October 30, 2018 Board of Adjustment meeting

**ACTION:** Board Member Russo made a motion to approve the minutes from the October 30, 2018 Board of Adjustment meeting. The motion was seconded by Board Member Smith.

**VOTE:** 4 in favor and 1 absent Motion carried

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

**OLD BUSINESS:**

None

**NEW BUSINESS:**

Review Petition 18-14 Tax Parcel # 1900-400-766

Code Officer Faedtke read the summary analysis for Petition 18-14, including the following sections from the site analysis: The Request, The Statement of Fact, The Issues, and The Grant of the Petition.

Jeff Williams, P.E., Project Manager at The Kercher Group, spoke on behalf of the applicant and gave a presentation about the proposal to subdivide the subject parcel into three separate parcels in order to build townhomes. Mr. Williams stated that they do believe the project will not be detrimental to the neighborhood and they have secured the following approvals for the project: New Castle County Public Works for the sanitary sewer main extension and permeable pavement in the easement of the sewer, New Castle Conservation District for the sediment and stormwater plan, and Artesian Water for three water connections.

Chairman Personti asked about the fence that the Planning Commission had conditioned its approval on. Mr. Williams stated that one of the residents had requested the existing fence remain and that the applicant agreed.

Code Officer Faedtke read a letter from a resident opposing the application.

**ACTION:** Board Member Smith made a motion to approve the subdivision with the condition that the existing fence on the property should remain. The motion was seconded by Board Member Russo.

**VOTE:** 4 in favor and 1 absent Motion carried

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

#### Review Petition 18-27 Tax Parcel # 1900-500-178

Code Officer Faedtke read the summary analysis for Petition 18-27, including the following sections from the site analysis: The Request, The Statement of Fact, The Issues, and The Grant of the Petition.

Mark Ziegler, from McBride and Ziegler, spoke on behalf of the applicant and gave a presentation about the applicant's plan to operate his business at the subject property and redevelop the parking lot at 14 Hadco Road. Mr. Ziegler explained that the property is completely surrounded by other GI zoned properties and that two of the three variances being requested pertain to the area that abuts to the railroad, so there would be no adverse impact to any surrounding properties. Mr Ziegler also stated that they plan to separate the warehouse and office components of the site and that the variance for 4.5 feet is needed in order to separate truck and customer parking lots.

Chairman Personti asked about the purpose of the silo. Mr. Papa stated that it will be used for storage.

Code Officer Faedtke read an email from Councilwoman Marianne Skipski, 1st District, stating that she has not received any comments either for or against the project.

**ACTION:** Board Member Russo made a motion to approve Petition 18-27. The motion was seconded by Board Member Boyd.

**VOTE:** 4 in favor and 1 absent

Motion carried

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

Review Petition 18-28 Tax Parcel # 1900-200-216

Appellant Anatoly Logvinsky stated that he has owned the property at 2118 Seneca Road for 11 years, has never had a citation, and he was out of the country at the time that the citation under appeal was issued. Mr Logvinsky discussed the problems he has experienced with the neighboring property at 2116 Seneca Road, which has been trouble for years and has caused him to lose tenants. Mr. Logvinsky stated that he has written letters to authorities at the state and local level requesting assistance with the problem and has not received a response. Mr. Logvinsky further stated that when the Town abated the property, it killed his bushes and noted that he received a citation for his property for overgrown grass and bushes but the neighboring property is still a problem. He asked for relief from the fine and cost of the abatement. At this time, Mr. Logvinsky presented the letters that he had previously submitted to request assistance with the neighboring property.

Code Officer Scott Allen stated that the citation was issued due to a complaint from a neighbor that the bush was overgrown and making the sidewalk impassable. Code Officer Allen explained the process that he followed and stated that he responded to the complaint, took photos of the bush and issued the citation. Code Officer Allen said that he found the violation had not been corrected while following up after the abatement date and arranged for the abatement. As a result, both the original fine and the cost of the abatement is now due.

Board Member Smith asked the appellant why he was not at the property over the summer to maintain the property. Mr. Logvinsky replied that it rained every day over the summer and he wasn't able to cut it. Board Member Smith stated that he doesn't understand how the bush grew so large. Mr. Logvinsky stated that he periodically cuts the grass and had the bush trimmed in the spring.

Board Member Russo noted that the property owner is responsible for maintaining his own property and if he will be out of the country, he is still responsible so that it does not infringe on the neighbors. Board Member Russo asked what evidence he has to show that he has been a good owner for the last 11 years and explained that being out of the country is not a good enough excuse. Mr. Logvinsky replied that he has not had any other citations and that the town should not have any other citations on record for his property.

Mrs. Logvinsky questioned how would she and her husband have evidence of not having any other citations. She stated that they have taken care of the property previous to this violation and have done everything they are supposed to, including the required town inspections, and that they have been dealing with other issues, such as bed bugs and roaches, coming from the neighboring property. Mr. Logvinsky said that the code officer told him nothing could be done about the problems and that Faithful Friends said nothing could be done about the cats.

Board Member Boyd noted that the pictures clearly show that the bushes were overgrown and could contribute to a safety hazard, that she understands that they were out of town but they must still maintain the property. After further discussion, Mrs. Logvinsky stated that it would never happen again.

Board Member Russo proposed a compromise that the Board waive the fine but, due to the fact that the services have been provided by the town, the abatement would remain. Mr. Logvinsky said he would be more appreciative if he could receive a response from the letter that he sent about the neighbor's property. Mr. Logvinsky stated that he understands that the neighbor complained about his property but the extermination of the roaches and bedbugs from the neighbor's property cost \$3,000.

**ACTION:** Board Member Russo made a motion that the fine of \$70.00 should remain but, as a showing of good faith, that the \$100.00 fine is waived with the understanding that the property owner is responsible for maintaining the property regardless of whether they are in the country or not. The motion was seconded by Board Member Boyd.

The board members had a short discussion whether the appeal is being granted with this motion.

**VOTE:** 3 in favor, 1 opposed, and 1 absent Motion carried

Personti – Yes, Acton – Absent, Boyd – Yes, Russo – Yes, Smith – No

Mr. Logvinsky spoke about the property next door and how the problems with insects and rodents are impacting his property.

Code Officer Allen gave a report about the current condition of the property next door at 2116 Seneca Road, stating that all complaints that the appellant has submitted have been taken care of and that the shed has been taken care of, the furniture has been removed, the window has been closed and that it is currently vacant. Mr. Logvinsky stated that it has never been exterminated, which is still causing a problem for the adjoining properties, and that both of his tenants have given notice to move out due to the property next door. Code Officer Allen noted that this property has been condemned at this point.

Chairman Personti inquired whether the town can do anything. Code Officer Allen stated that the town is requiring that the property owner provide a clear pest inspection before it can be occupied and that it has already been condemned.

Mr. Logvinsky agreed to pay the fine and further discussed the issues next door, asking for whatever assistance the town can provide. Code Officer Allen stated that the town will continue to follow up on this property.

**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 – Absent, Boyd – Yes, Russo –Yes, Smith – Yes

These minutes summarize the agenda items and other issues discussed at the November 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.

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**JAMES PERSONTI, CHAIRMAN**

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**PATTY BOYD, SECRETARY**