

**TOWN OF ELSMERE
 BOARD OF ADJUSTMENT
 MEETING MINUTES
 January 28, 2020
 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	PRESENT
BOARD MEMBER	RON RUSSO	PRESENT
BOARD MEMBER	JOHN SMITH	ABSENT

Code Enforcement Officer, Scott Allen – Present
 Code Enforcement Office, Victor Morgan – Present

PUBLIC COMMENT: None

APPROVAL OF MINUTES:

Minutes from the November 26, 2019 Board of Adjustment Meeting

ACTION: Board Member Boyd made a motion to approve the Minutes from the November 26, 2019 Board of Adjustment meeting with no corrections. The motion was seconded by Board Member Acton.

VOTE: ALL in favor Motion carried

OLD BUSINESS: None

OPENING STATEMENT:

Administrative Assistant for the Code Department Denise Lardani read the opening statement.

NEW BUSINESS:

Review Petition 19-10 Tax Parcel # 19-00200-098

Review Petition 20-01 Tax Parcel # 1900-200-190 (Petition withdrawn)

Chairman Personti called the meeting to order for Petition 19-10 John Meyers is appealing violation V2000090 non filing of rental license.

Town Manager Giles asked if there are any preliminary matters

John Myers stated that based off his opinion that code 182-1 states that a family may be considered a group of not more than 5 adults. He stated that him and 3 other adults live together. They do not have leases or anything to help with expenses and believes that he is not in violation.

Town Manager Giles read the Town of Elsmere's opening statement that the town does intend to improve that you have in fact people living in your house that are not family members and that you are in violation.

Mr. Blanco witness for Mr. Meyers stated he has been like a family/friend of Mr. Meyers for years and has a great life since he moved in at Mr. Meyers. He stated that everyone who lives there all split the bills.

Town Manager Giles asked Mr. Blanco how long you have lived at 202 N. Dupont. He responded about 3-4 years, Manager Giles asked and how often do you pay the bills. Mr. Blanco stated about once month, or I will fix things around the house.

Mr. Coverdale spoke on behalf of Mr. Meyers stated he has been there about 20 years. He stated he wasn't aware that they weren't a family. They've had a positive impact on the property. His address is 321 S Cleveland Avenue,

Manager Giles called Corporal Scott Sowden to the podium.

Corporal Sowden stated his name, and employed by the Town of Elsmere, He stated that they were investigation a criminal matter with a gentleman living there. They contacted Mr. Blanco and he advised that he rented a room from Mr. Meyers.

Town Manager Giles asked if Corporal Sowden ever experienced any other individuals stating they lived there. Office Sowden responded that yes on October 17, 2019 he had a pedestrian stop and that their Driver's License stated they lived at 202 N. Dupont Road and he asked them did you live there and the response was yes for several years I rented a room from Mr. Meyers but no longer reside there.

Town Manager Giles asked what you did when you found out this information. Corporal Sowden stated he notified the Code office of the town about the address and unregistered rental property.

Town Manager Giles called Code Enforcement Officer Scott Allen to the podium.

Officer Allen stated his name, title and place of employment.

Town Manager Giles asked Officer Allen did you give a Citation to Mr. Meyers. Officer Allen responded on 11/8/2019 yes, I did for an Unregistered Rental Property.

Town Manager Giles asked and what gave the impression that it was an Unregistered Rental property. Office Allen responded that he received information from Corporal Sowden that the property appears to be a rental property.

Chairman Personti questioned the difference between Code 182-1 versus 182-2. Town Manager Giles responded that it states the difference of immediate family does not need a rental license which is very defined what immediate family is in the code and what Mr. Meyers has in not immediate family living there which is why he needs a rental license.

Commissioner Acton stated there is also an issue with owner occupied versus non owner occupied of which the place in question is owner occupied.

Manager Giles stated that yes, it is owner occupied but not by the definition of family members living there, its non-family members which the town code specifically states he should have a rental license for the rooms that he is renting out.

Commission Acton stated for lack of a better term it's like a boarding house. Manager Giles responded yes.

Commissioner Acton, Commissioner Russo and Commissioner Boyd all agreed that the definition of family is confusing to them.

Commissioner Russo asked Mr. Blanco does your monthly payment differ or is the same amount every month. Mr. Blanco responded that it changes based off the cost of the monthly bills.

Commissioner Russo asked Mr. Meyers is there a surplus after the monthly bills are paid. Do you claim income on your taxes? Mr. Meyers stated that no there is never a surplus. That his mortgage is double what he collects from the individuals living there.

Commissioner Russo asked Mr. Meyers how people know about being able to live with him. Mr. Meyers stated word of mouth and I have never advertised. That most of the time they work with his wife at Angerstein's.

Town Manager Giles asked Mr. Meyers If you are not at the property 70% of the time how do you consider this to be a family dwelling. He said that although he is gone a lot of the time these people, I still consider them to be family.

Mr. Meyers stated he feels the code is very confusing and he feels that the people living with him are his family.

Commissioner Boyd asked if they are required to get a rental license is it for each room or just one for the property. Town Manager Giles responded that it would be for each room and the cost is \$200 per room. That the rental fee is to protect the tenant. That it gets inspected for code issues, bug issues and that the property is safe to the tenant.

Town Manager Giles closed in stating the violation in his opinion should be upheld and that he feels Mr. Meyers was aware that he should have a rental license.

Commissioner Russo stated that this part of the code is ambiguous and confusing and that the fee should be waved. Commissioner Boyd agreed. That in fairness we cannot agree as the board we cannot uphold the fine. In the future though the code will be updated, and, in the future, you may have to have a rental license on a going forward basis.

Chief Giles came to the podium stating her name and employment. She told Mr. Meyers that there is a safety concern for her employees at that they as the Police needed to know who is living in the house. Also, that she is very concerned that there is a young child living there now.

ACTION: A motion was made by Board Member Russo to grant the petition 19-10 and wave the fine based on the ambiguity of the existing code. The motion was seconded by Board Member Boyd.

VOTE: All in favor Motion carried

ITEMS SUBMITTED BY CHAIRMAN AND BOARD MEMBERS:

None

PUBLIC COMMENT:

None

ADJOURNMENT:

ACTION: A motion was made by Chairman Personti to adjourn. The motion was seconded by Board Member Boyd.

VOTE: All in favor Motion carried

These minutes summarize the agenda items and other issues discussed at the January 28, 2020 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