EXHIBIT

tabbies

21-10 A

TOWN OF ELSMERE

APPEAL TO THE BOARD OF ADJUSTMENT

Any person directly affected by a decision of the Code Enforcement Official or a notice or order issued under this Code shall have the right to appeal to the Board of Adjustment of the Town of Elsmere, provided that t written application for appeal is based on a claim that the true intent of this code or the rules legally adopted there under has been incorrectly interpreted or the provisions of this code do not fully apply. Additionally, an application for appeal may be based on a claim that an action other than what is required by the Code: 1) provides the same or better protections than what the Code requires and 2) will not cost the Tow of Elsmere any more money than enforcing the code as written. If the appellant proves that an action other than what is required by the code meets these two requirements, the Board of Adjustment may, in its discretion, either enforce the Code as written or permit the proposed alternative action.

Date this Appeal was filed: 05/17/2021	**Petition Number:** 21-10
Date of the Original Action: 05/12/2021	**Tax Parcel Number:** 19-00400-262
Subject Property Address: 139 Bungalow Ave	
Property Owner's Name: Nate Long	**Phone Number:** 484-809-5984
Property Owners Address: 139 Bungalow Ave	
Applicant's Name: Nate Long	
Applicant's Address: 139 Bungalow Ave	

Specific Item Being Appealed: (ex: Citation Number, Petition Number, Order Number, Etc.)
Citation for Fence Installation

Reason for the Appeal: Fence replaced existing 6 foot privacy fencing. Several houses in the neighborhood use 6 foot privacy fencing.

Relief sought: Recall citation and forego further action.

Applicant's Signature: Nate Long **Date:** 5/17/21

EXHIBIT
tabbies
21-10 B

THE TOWN OF ELSMERE CODE ENFORCEMENT DEPARTMENT

*****CITATION*****

11 Poplar Avenue - Elsmere, DE 19805 Phone: 302-998-2215 Fax: 302-998-9920

RESPONSIBLE PARTY		CITATION #	V2100599
SCOUT MICHAEL & JEAN & BERRY		OFFICER	N. Nabb
C/O MICHAEL SCOUT	Neat Long	VIOLATION DATE	05/12/21
201 ROSEWOOD DR		PROPERTY ADDRESS	139 BUNGALOW AVE
NEWARK, DE 19713		ABATEMENT DATE	05/17/21

On the above date, the Code Enforcement Department performed an inspection of the above referenced property. During this inspection, a violation of the Town of Elsmere Code was discovered. The nature of this civil citation is described below.

Specific Violation	Code Section	Due No Later Than	Amount Due
Installation of a privacy fence not allowing 50% air and light in an R2 district.	225-8P Prohibited Fences	06/12/2021	$ 100.00

HOW YOU CAN AVOID PAYING THE FINE

If you have not received any citations for any violation within the last 12 months, the fine may be waived. You must take the required corrective action and abate the situation and bring proof of your actions to the Town's Code Enforcement Office within 48 hours of the violation date. If, in the opinion of the Code Enforcement Officer, the situation has been resolved and the violation no longer exists, the fine portion and only the fine portion of this summons, may be waived. The record of a violation occurring shall remain and the property may still be subject to fines associated with being deemed a repeated public nuisance.

*****CITATION INFORMATION*****

In order to process your payment, please write the property address in violation in the memo section of the check or money order, and then mail it with the voucher below. You may also pay your fee in person at Town Hall, 11 Poplar Ave. Elsmere, DE 19805.

ABATEMENT COST

If the violation noted above is not corrected by 4:00 pm. on the **"ABATEMENT DATE"** listed above, the Town will take action to abate the violation. If this becomes necessary, in addition to the fine already assessed, you will owe to the Town the costs of the abatement.

Should you have any questions please contact the Code Enforcement Department at (302) 998-2215.

The "Amount Due" associated with this violation is a civil penalty and is due by no later than the "Due No Later Than." Additionally, if the violation is not abated by the "Abatement Date" shown above, the Town will take action to correct the violation. If this becomes necessary, you will be responsible for the payment of all abatement costs incurred by the Town. You must pay the amount due by the date shown below, even if the violation has been corrected.

Please return this section with your payment.

DUE NO LATER THAN	PARCEL NUMBER	CITATION NUMBER	AMOUNT DUE
06/12/2021	19-00400-262	V2100599	$ 100.00

Mail Your Payment To:

The Town of Elsmere
Finance Department
11 Poplar Avenue
Elsmere, DE 19805

Each 24-hour period that the condition giving rise to this citation continues is subject to a separate citation and an additional civil penalty penalty.

You have the right to appeal this violation by submitting a written application to the Town of Elsmere's Board of Adjustment within twenty (20) days of the date of this violation.

MEANS OF APPEAL ARE SHOWN ON THE BACK OF THIS FORM.

EXHIBIT
tabbies
21-10 C

APPEALS

111.1 Application for appeal.

Any person directly affected by a decision of the code official or a notice or order issued under this code shall have the right to appeal to the Board of Adjustments of the Town of Elsmere, provided that a written application for appeal is filed within 20 days after the day the decision, notice or order was served. An application for appeal shall be based on a claim that the true intent of this code or the rules legally adopted there under have been incorrectly interpreted or the provisions of this code do not fully apply. Additionally, an application for appeal may be based on a claim that an action other than what is required by the code: 1) provides the same or better protections than what the code requires and 2) will not cost the Town of Elsmere any more money than enforcing the code as written. If the appellant proves that an action other than what is required by the code meets these two requirements, the Board of Adjustments may, in its discretion, either enforce the code as written or permit the proposed alternative action.

111.2 Notice of meeting.

The Board of Adjustments shall meet upon notice from the chairman, and conduct the appeal hearing within 20 days of the filing of an appeal.

111.3 Open hearing.

All hearings before the Board of Adjustments shall be open to the public. The appellant, the appellant's representative, the code official and any person who has been called as a witness or whose interests are affected shall be given an opportunity to be heard.

111.4 Procedure.

The Board of Adjustments shall set and make available the procedures under which a hearing will be conducted. The procedures shall not require compliance with strict rules of evidence, but shall mandate that only relevant information be received.

111.5 Postponed hearing.

Either the appellant or the appellant's representative shall have the right to request a postponement of the hearing.

111.6 Board decision.

After hearing the evidence provided at the hearing the Board of Adjustments shall modify or reverse the decision of the code official only by a concurring vote of a majority board members present.

111.7 Records and copies.

The decision of the board shall be recorded. Copies shall be furnished to the appellant and to the code official.

111.8 Administration.

The code official shall take immediate action in accordance with the decision of the Board of Adjustments.

111.9 Court review.

Any person, whether or not a previous party of the appeal, shall have the right to apply to the appropriate court for a writ of certiorari to correct errors of law. Application for review shall be made in the manner and time required by law following the decision of the Board of Adjustments.

111.10 Stays of enforcement.

Appeals of notice and orders (other than Imminent Danger notices) shall stay the enforcement of the notice and order until the appeal is heard by the Board of Adjustments.

This civil penalty is imposed pursuant to Section 171-4 of The Town of Elsmere Code for violating the Town of Elsmere's Property Maintenance Code (Chapter 171). The Town of Elsmere Code is available for your inspection at the Town Hall, 11 Poplar Avenue, Elsmere, DE 19805

EXHIBIT
tabbies
21-10 D

The Town of Elsmere

11 Poplar Avenue, Elsmere, Delaware 19805

Phone (302) 998-2215 Fax (302) 998-9920

05/12/21

SCOUT MICHAEL & JEAN & BERRY
C/O MICHAEL SCOUT
201 ROSEWOOD DR
NEWARK, DE 19713

Re.: Tax Parcel 19-00400-262 *139 BUNGALOW AVE*

Dear Property Owner,

Enclosed you will find a "Notice of Violation" which was issued due to conditions found at the property listed above. The records of the Town of Elsmere identify you as the owner of this property. Also enclosed, you will find a copy of Chapter 145 of the Code of the Town of Elsmere. Please take the time to review both of these documents thoroughly.

Based upon the violation listed in the enclosed "Notice of Violation", which states the date and time the prohibited conduct was observed at your property, as well as the nature of the prohibited conduct, your property has been deemed to be a "Public Nuisance" as defined in Chapter 145. Therefore, this property must be brought into compliance within five (5) days of the date of this letter. Should the prohibited conduct not be corrected within five days of the date of this letter, the Town of Elsmere will take steps to abate the referenced violation(s). Should this become necessary you, as the property owner, will be liable to reimburse the Town for its costs and expenses to abate the nuisance and for inspections and to maintain the property in a safe condition, including reasonable attorneys' fees. Should these costs and expenses remain unpaid after 30 days, the amounts due shall become a lien upon your property.

Additionally Chapter 145 provides that if more than two violation for prohibited conduct as defined in the chapter occurs at this location within one year of a previous violation, the property will be deemed to be a "Repeated Public Nuisance", and as such, you as the owner, would face fines of not less than $1,000.00 nor more than $2,000.00, and could be found guilty of a misdemeanor punishable by imprisonment for up to one year for each offense.

Please carefully review the definition and penalties for a "Repeated Public Nuisance". If this latest violation is not the first violation to occur at property within one year, you will not be given additional warnings. Please contact me as soon as possible if you have any questions or are unsure of the potential penalties you, as the property owner, may be subject to.

Respectfully,

N. Nabb

Code Enforcement Officer
cc: file

Chapter 145

NUISANCES

ARTICLE I

EXHIBIT
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21-10 E

Nuisance Properties
[Adopted 5-13-2004 by Ord. No. 430]

§ 145-1. Findings.

The Mayor and Council finds and determines that the existence of buildings, structures, properties and open lots which are repeatedly in violation of or the subject of repeated neighborhood complaints concerning violations of the Property Maintenance Code, and the General Code of the Town of Elsmere, can have a devastating impact upon the use of such property as well as surrounding properties and upon the surrounding community, including the promotion of illegal activities, the threat to the public health, safety and welfare, the interference in the community's quality of life as well as the value of surrounding properties, and, therefore, constitute public nuisances that endanger the health, safety and general welfare of the people of the Town of Elsmere and to the businesses thereof and visitors thereto.

§ 145-2. Definitions.

As used in this article, the following terms shall have the meanings indicated:

OWNER — Any person, individual, association, entity or corporation in whose name the affected real estate is recorded with the New Castle County Recorder of Deeds shall be presumed to be the owner thereof.

PROHIBITED CONDUCT — Any action or lack of action which creates or results in the maintaining of or failure to abate a condition which is in violation of the codes of the Town of Elsmere or which endangers the safety, health or welfare of the public.

PUBLIC NUISANCE — A residence, premises, structure, place or lot, developed or undeveloped, which creates or results in the maintaining of or failure to abate a condition which is in violation of the codes of the Town of Elsmere or which endangers the safety, health or welfare of the public.

REPEAT PUBLIC NUISANCE — Any building, residence, premises, structure, place or lot, developed or undeveloped, where an owner or agent has been given written notice by the Code Enforcement Office of the Town of Elsmere that public nuisance has taken place at said location and within one year of that notice there is more than one additional violation at that location for prohibited conduct for which the owner or agent is again notified in writing.

§ 145-3. Prohibited conduct.

It is a violation of this article for the owner or his or her agent, the lessee, renter, occupant or person in charge of any building, residence, premises, structure, place or lot, developed or undeveloped, to allow, cause, own, lease, permit, facilitate or maintain the creation or occurrence of a public nuisance or repeat public nuisance.

§ 145-4. Presumptions.

A. It shall be a rebuttable presumption that more than two violations for prohibited conduct occurring within 12 months of each other have caused a repeat public nuisance to exist. This presumption shall be effective for any combination of three violations occurring within 12 months.

B. Presumption of agency. Whenever there is evidence that a person was the manager, operator, supervisor or, in any other way, in charge of the premises at the time a public nuisance exists, such evidence shall be presumptive that he or she was an agent of the property owner.

§ 145-5. Violations and penalties; liability for cost of abatement.

A. In addition to any other penalties provided for in the Code of the Town of Elsmere for a violation of the Code, a violation of this article shall be a misdemeanor punishable by a fine of not less than $1,000 for the first offense and $2,000 for each additional offense occurring within one year and/or imprisonment for up to one year for each offense.

B. This article shall not be construed to exclude any civil or criminal remedy provided by law for the enforcement of this Code or of the other laws of the Town of Elsmere or the County of New Castle, the State of Delaware or the United States of America.

C. In addition to any other penalty that may be imposed hereunder, the owner of a premises who fails to abate a public nuisance, said owner having knowledge of same or having been given due notice as set forth in this article, shall be liable to reimburse the Town for its costs and expenses to abate such public nuisance, for inspections and to maintain the property in a safe condition, including reasonable attorneys' fees. Said costs and expenses, if unpaid within 30 days of service on the owner of notice of amounts due, shall become a lien on the real property for said premises.

§ 145-6. Service of notice.

A. A notice of violation that a prohibited conduct has occurred at a location shall be served by placing into the U.S. mail a notice of the violation and mailing same to the last known address of the owner of said property.

B. The notice must contain the following:

(1) A statement of the date or dates upon which the prohibited conduct occurred at the property.

(2) The nature of the prohibited conduct and a directive that such conduct be abated within five days of the mailing of said notice.

(3) A copy of this code and a warning that if more than one additional violation for prohibited conduct as defined in this article occurs within one year of a previous violation, the owner will be subject to the penalties of this article, including but not limited to the Town seeking to place a lien or forfeiture pursuant to this article.

§ 145-7. Enforcement.

A. Upon each offense for prohibited conduct, the Code Enforcement Officer may issue a summons to the owner, person in charge of said premises and/or the occupant of the residence.

B. Upon a first offense for prohibited conduct, the Code Enforcement Department shall send the property owner or his or her agent a notice pursuant to the requirements of this article. Upon a second or subsequent offense for prohibited conduct occurring within one year of the first offense, a second or subsequent notice as described in this article shall be sent to the property owner or his or her agent.

C. Upon failure of the owner to bring the building, residence, premises, structure, place or lot into compliance with the Town Code, the Town Attorney may apply to the appropriate court to appoint a temporary receiver to manage, operate and bring the building, residence, premises, structure, place or lot into compliance with the Code of the Town of Elsmere.

EXHIBIT
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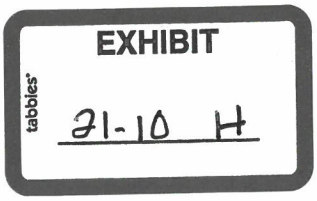
21-10 F

EXHIBIT

tabbies

21-10 G



Code of the Town of Elsmere, Delaware

Chapter 225: Zoning

Article II General Provisions

§ 225-8 **Regulations applicable to all zones; prohibited uses.**

P. Except in an R-1 Residential District, fences may be erected, altered or reconstructed to a height not to exceed four feet above ground level when located in the front yard area or to a height of six feet above ground level if located elsewhere on the lot, and they shall not be built to admit less than 50% air and light in the front and side portions of the lot only. All rear yard fences must contain a gate that is a minimum of three feet wide. In an R-1 Residential District, the same restrictions shall apply, except that a fence in the rear and side portions of the lot may admit less than 50% air and light.

Parcel # 1900400262

EXHIBIT
tabbies
21-10 I

Property Address: 139 BUNGALOW AVE
WILMINGTON, DE 19805-
Subdivision: ELSMERE GARDENS
Owner: LONG NATHANIEL
139 BUNGALOW AVENUE
Owner Address:
WILMINGTON, DE 19805
Municipal Info: Incorporated in ELSMERE PROPERTY TAX AREA

Lot #: 20
Location:
Map Grid: 09403560
Block: 1
Census Tract: 124.00
Street Type: NEIGHBORHOOD
Water: PUBLIC
Microfilm #: UNREC

Property Class: RESIDENTIAL
Lot Size: 0.07
Lot Depth: 98.30
Lot Frontage: 29.30
Street Finish: SIDEWALK

District & Zoning Info

Districts

- **FIRE/RESCUE - ELSMERE**
- **RED CLAY SCHOOL DIST-TRES**
- DE SEN 07-SPIROS MANTZAVINOS
- TRAFFIC ZONE T083 (YR2000)
- NORTH OF C&D CANAL
- COUNCIL 1 - KENNETH R WOODS
- ADD REQ PER SEC 10.3.4.4 DSSR
- SEWER DISTRICT NORTHERN-ASMT
- PLANNING 8 - LOWER CHRISTINA
- ELSMERE GARDENS - Civic Organization - no contact information available
- DE REP 13-JOHN L MITCHELL JR

Zoning

- 19R2 - ONE/TWO FAMILY DWELLING

Deed History

Grantee(s)	Deed	Multi?	Sale Date	Sale Amount
SCOUT BARBARA	Y75 172	N	Not Available	$0.00
SCOUT MICHAEL & JEAN & BERRY CHERYL & ROBINSON	WR168634	N	1/4/2018	$0.00
LONG NATHANIEL	20210524 0061005	N	11/2/2020	$125,000.00

Tax/Assessment Info

Assessment

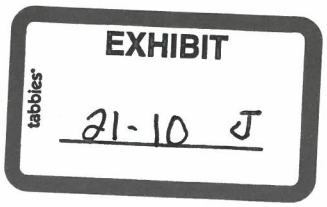
Land:	7000
Structure:	24100
Homesite:	0
Total:	31100
County Taxable:	31100
School Taxable:	31100

Tax Bills as of 6/10/2021 3:01:06 AM

	County			School		
Tax Year	Principal Due	Penalty Due	Amt Paid	Principal Due	Penalty Due	Amt Paid
2010A	$0.00	$0.00	$104.70	$0.00	$0.00	$567.27
2011A	$0.00	$0.00	$106.61	$0.00	$0.00	$560.73
2012A	$0.00	$0.00	$106.90	$0.00	$0.00	$554.20
2013A	$0.00	$0.00	$0.00	$0.00	$0.00	$317.37
2014A	$0.00	$0.00	$0.00	$0.00	$0.00	$323.07
2015A	$0.00	$0.00	$0.00	$0.00	$0.00	$356.72
2016A	$0.00	$0.00	$0.00	$0.00	$0.00	$387.28
2017A	$0.00	$0.00	$0.00	$0.00	$0.00	$409.67
2017Q3	$0.00	$0.00	$26.00	$0.00	$0.00	$0.00
2018A	$0.00	$0.00	$121.01	$0.00	$0.00	$803.67
2019A	$0.00	$0.00	$105.71	$0.00	$0.00	$770.97
2020A	$0.00	$0.00	$98.48	$0.00	$0.00	$770.97

Tax Payments as of 6/10/2021 3:01:06 AM

Date Paid	Amt Paid
8/4/2010	$671.97
9/7/2011	$667.34
9/5/2012	$661.10
8/5/2013	$317.37
9/4/2014	$323.07
8/5/2015	$356.72



8/5/2016	$387.28
8/11/2017	$409.67
5/10/2018	$26.00
10/23/2018	$924.68
9/24/2019	$876.68
9/28/2020	$869.45

County Balance Due: $0.00

School Balance Due: $0.00

These amounts are valid through the last day of the month. For accounts with delinquent balances, statutory penalty will accrue on the first day of next month.

Sewer History as of 6/10/2021 3:01:19 AM

Tax Year	Principal Due	Penalty Due	Date Paid	Amount Paid
2005S1	$0.00	$0.00	2/22/2005	$123.32
2006S1	$0.00	$0.00	6/2/2006	$233.50
2007S1	$0.00	$0.00	6/7/2007	$308.37
2008S1	$0.00	$0.00	2/22/2008	$176.62
2009S1	$0.00	$0.00	2/18/2009	$111.55
2010S1	$0.00	$0.00	2/12/2010	$92.03
2011S1	$0.00	$0.00	2/4/2011	$74.44
2012S1	$0.00	$0.00	2/3/2012	$50.00
2013S1	$0.00	$0.00	2/5/2013	$77.35
2014S1	$0.00	$0.00	3/5/2014	$50.00
2015S1	$0.00	$0.00	3/4/2015	$50.00
2016S1	$0.00	$0.00	2/3/2016	$50.00
2017S1	$0.00	$0.00	2/8/2017	$50.00
2018S1	$0.00	$0.00	2/14/2018	$50.00
2019S1	$0.00	$0.00	2/5/2019	$90.01
2020S1	$64.29	$3.85	Not Available	$0.00
2021S1	$56.00	$0.00	Not Available	$0.00

Balance Due: $124.14

These amounts do not reflect statutory penalty, which was imposed on the first of the month. To obtain the exact amount necessary to pay the account in full, please call New Castle County's Treasury Division at (302) 395-5340.

Residence Characteristics

Residence 0

Building Design:	ROW END	Residence Class:	SFD PLATTED LOT
Grade:	AVERAGE	Condition:	FAIR
Year Built:	1942	# Stories:	2
Total Area (sq. ft.):	0	Main Floor Area:	0
# Rooms:	6	# Bedrooms:	3
# 1/2 Baths:	0	# Full Baths:	1
# Fam. Rooms:	0	# Fixtures:	5
Roof Type:	GABLE	Roof Material:	ASPHALT
Exterior Wall:	ALUMINIUM OR VINYL	Interior Wall Finish:	PLASTER
Floor Finish:	WOOD	Foundation:	CONTINUOUS
Garage Capacity:	0	Basement %:	100%
Basement % Finished:		Basement Finish Type:	
Attic % Finished:			
Unfinished %:		Unfinished Area:	0
Heat Type:	HOT AIR	Air Conditioning:	
Remodel Year:	0		

139 Bungalow Avenue

Author:

New Castle County Delaware GIS: https://gis.nccde.org

Disclaimer: For informational purposes only - not to be used as official documentation.

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EXHIBIT

21-10 K

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