

**TOWN OF ELSMERE
BOARD OF ADJUSTMENT
MEETING MINUTES
January 26, 2021
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
Code Enforcement Officer, Nicole Nabb – Present		

PUBLIC COMMENT: None

APPROVAL OF MINUTES:

Minutes from the August 25, 2020 Board of Adjustment Meeting

ACTION: Board Member Boyd made a motion to approve the minutes from the August 25, 2020 Board of Adjustment meeting with no corrections. The motion was seconded by Board Member Smith.

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 20-16 Tax Parcel # 19-00200-288

Code Enforcement Officer Nicole Nabb read the statement of facts and issues for Petition 20-16 from the Site Analysis (Exhibit 20-16L).

Town Manager Giles references exhibit 20-17X is an abandoned vehicle and you can see lots of trash and debris on the side of the property & Exhibit 20-17Y shows a close-up of a lot of trash. Exhibit 20-17Z again shows trash and debris. Exhibit 20-17AA trash and debris and picnic table still present. The owner has been notified each time. Exhibit 20-17 AI on 3/18/2020 shows even more trash and debris that is flowing into the neighbor's trash. Town Manager Giles says this has been an ongoing issue with trash and debris.

Town Manager Giles stated that the \$1,000.00 fine is issued by Town Code and that Council determines these fines to deter activities such as this he stated that Mayor and Council determine the fines.

Mr. Muellenberg stated that every time he has come and cleaned up the debris himself and has tried to educate his tenants not to do this, but they are poor uneducated residents. He does not feel they can pay the fine and have a hard time paying their rent. He said several of the violations happened during the quarantine and that his tenants are barely hanging on to do that.

Mr. Muellenberg asked if in the future the citations can be emailed to him. He also feels that since the Town did not incur any expense to clean it up, it isn't fair to issue such a large fine.

Town Manager Giles responded that yes we can email the violations but the issue that is a violation whether corrected or not after 3 of them the nuisance fine gets billed.

Board Member Russo said that the comment was made that the Town did not incur any expense for the cleaning of the junk and debris but that is irrelevant. The Town's concern is the appearance of the Town and also the affect is having on the neighbors, neighborhoods and property values. He said you are asking us to not do what the Code Department is supposed to do and that is to issue the citations, violations, and fines.

Board Member Russo questioned the Petitioner "how do you plan to avoid these citations and violations from happening? Do you have preventative measures as opposed to recovery or after the fact measures?"

Mr. Muellenberg said that he realizes that two of the citations were due to the tenants putting their furniture out and it was a bad situation, and he has talked to his tenants that they are not allowed to just dump the furniture out like that. He is trying to educate them.

Chairman Personti asked if there was any public comment regarding Petition 20-17 and received none.

ACTION: A motion was made by Board Member Smith to deny Petition 20-17. Based on the grounds of continuous violations. The motion was seconded by Board Member Russo.

VOTE: 4 in favor and 1 absent

Motion carried

Review Petition 20-20 Tax Parcel # 19-00400-189

Mr. Schneider, Vista Properties is seeking to appeal Citation V2100250 for 1304 Cypress Ave. The three citations that lead to the nuisance fee were all for high grass and weeds. He is not denying the violations, he was surprised that the cost of the nuisance fine for high grass and weeds violations. He is requesting leniency on the fine. He has spoken to his tenant about the upkeep on cutting the grass, the tenant has stated, that he is currently in and out of work.

Mr. Schneider stated he has very minimal issues he pays his taxes, pays his fees and pays things when they are due and that he is asking for leniency.

Town Manager Giles said that this is the same case as the last one, that Code had to go and cite the violation for tall grass three times in a few months. The three violations put the property into compliance with being a fined a nuisance fee. The Town standpoint is the same for the last case.

Mr. Schneider asked to make comment that a \$1,000.00 fine is pretty steep for 3 high grass violations. He understands there are nuisance properties and safety concerns for other violations, but he feels for high grass it is a steep fine. He understands the violations are on the property, but he is pretty sure there are other properties that give the Town much more headaches than his property.

Town Manager Giles stated that he understands that as a property owner it isn't easy to get your tenants to comply with the Town Code. He also said that we as the Code Office should not have to come out and tell the tenant to cut their grass three times and some pictures, were at 15-16 inches high. Maybe the homeowners need to drive by more often to confirm the tenants are doing their part.

Chairman Personti asked if there was any public comment regarding Petition 20-20 and received none.

ACTION: A motion was made by Board Member Boyd to deny Petition 20-20. The motion was seconded by Board Member Smith.

VOTE: 4 in favor and 1 absent Motion carried

Mr. Schneider asked if he could have the \$60.00 penalty waived that accrued while waiting for his appeal hearing.

Town Manager Giles stated that yes in fact the penalty will be waived.

Town Manager Giles apologized to the two homeowners and stated that it is the Town Code, and we are responsible for enforcing it. He also reminded them if the property were to get another fine within that one-year period it will result in a repeated public nuisance fine that will be \$2,000.00.

ITEMS SUBMITTED BY CHAIRMAN AND BOARD MEMBERS:

None

PUBLIC COMMENT:

Mr. Denny made a comment that he is a landlord across the street from 1304 Cypress Ave. This is his first meeting and stated that as a landlord, you have a tenant getting repeated violations there are legal ways to have that tenant removed. Yes, during COVID it is a little harder and more challenging, but it still can be done.

ADJOURNMENT:

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

VOTE: All in favor

Motion carried

These minutes summarize the agenda items and other issues discussed at the January 28, 2021, 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