

**TOWN OF ELSMERE
BOARD OF ADJUSTMENT
MEETING MINUTES
May 28, 2024
6:30 P.M.**

PLEDGE OF ALLEGIANCE:

CALL TO ORDER:

ROLL CALL:

CHAIRMAN	JAMES PERSONTI	PRESENT
BOARD MEMBER	JOHN ACTON	PRESENT
BOARD MEMBER	RON RUSSO	PRESENT
BOARD MEMBER	JOHN SMITH	PRESENT
BOARD MEMBER	KYRAH TATE	PRESENT

Code Enforcement Officer, Nicole Facciolo – Present
Code Enforcement Officer, Vaughn Hill - Present

PUBLIC COMMENT: None

APPROVAL OF MINUTES:

Minutes from the April 23, 2024, Board of Adjustment Meeting

ACTION: Board Member Smith made a motion to approve the minutes from the April 23, 2024, Board of Adjustment meeting with no corrections. Board Member Tate seconded the motion.

VOTE: All in favor Motion carried

Russo – Yes, Acton – Yes, Smith – Yes, Personti – Yes, Tate - Yes

OLD BUSINESS: None

OPENING STATEMENT:

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

NEW BUSINESS:

Review Petition 24-02 Tax Parcel # 19-00400-124

The applicant seeks to subdivide 115 Forrest Avenue into two parcels and construct two single family dwellings, one per lot. The board of Adjustment will review and make a recommendation to the Mayor and Town Council.

At the Board of Adjustment hearing, Kevin Smith, the CEO of Habitat for Humanity spoke on own behalf of Daniel Padgett as the Applicant and Code Enforcement Officer Nicole Facciolo represented the Town. Prior to hearing any testimony, all witnesses who were expected to testify were sworn in by Chairman Personti. The testimony of all parties, which is more fully spelled out on the record, is summarized below.

The Applicant was asked to provide an opening statement. In his statement, Kevin Smith stated the goal is to put God, Love, and hope into the community with the building of these homes and to provide affordable housing for first time home buyers, for individuals who do not qualify for a mortgage through the conventional home buying process. There is a 10-year commitment to the homeowners selected for the houses with 300 hours of sweat equity. This consists of credit counseling, construction home maintenance training, and good neighbor training.

Carol Ohm, Engineer for Apex Engineering, LLC spoke about the flood plain and said they will raise the floor elevation up the required amount out of the floodplain which is about a foot and half. On some of the habitats they use flood vents.

Councilwoman Joann Personti, 5th district, has received no opposition for this requested project and she supports it.

ACTION: Board Member Smith made a motion to approve Petition 24-02. Board Member Russo seconded the motion.

VOTE: All in favor Motion carried

Russo – Yes, Acton – Yes, Smith – Yes, Personti – Yes, Tate – Yes

Review Petition 24-06 Tax Parcel # 19-00800-130

The applicant seeks to appeal a decision made by the Town of Elsmere Code Office to deny Petition 24-05 to not allow the petition to be forwarded to the Planning Commission and Board of Adjustment due to legal non-conformance. The Board will review and make a decision regarding this petition.

The Appellant was asked to provide an opening statement. In her statement, Denise Cuff stated that she has been a long-time resident of over 20 years in the Town and is seeking this approval due to a medical necessity for her ailing husband to be able to get to and from the car in a safe manner. She is requesting you to build a 640 sq. foot driveway at the back of the house so that her husband will be able to walk with a walker to the car instead of wet grass or patchy unsafe grass.

Multiple conversations were had by the Board Members as to what tonight's hearing is for.

Code Enforcement Officer Nicole Facciolo responded this is to appeal the Code Enforcement Officer's denial and normally the Town would deny further expansion of a legal non-conforming property due to lot coverage, but there is a true medical necessity and hardship that should be considered.

Nicole stated the Code Enforcement Office and Town Manager tried to find a way so this would not be denied and even consulting our counsel but there was no way around denying the original petition for a variance to increase the impervious coverage on a legal non-conforming property.

Multiple neighbors were present for the appellant, and all agreed this is true hardship and has no opposition to her request being approved.

Councilwoman Mary Steppi, 3rd District, approves the need for the additional impervious coverage.

ACTION: Board Member Russo made a motion to approve Petition 24-06 to allow the variance for the additional impervious coverage. Board Member Acton stated this motion needs to be changed to say approved to allow the petitioner to go back to the Planning Board . Board Member Smith seconded the motion.

VOTE: 4 in favor, 1 Opposed Motion carried

Russo – Yes, Acton – Opposed, Smith – Yes, Personti – Yes, Tate – Yes

ITEMS SUBMITTED BY CHAIRMAN AND BOARD MEMBERS: None

PUBLIC COMMENT: None

ADJOURNMENT:

ACTION: Board Member Russo made a motion to adjourn. Board Member Smith seconded the motion.

VOTE: All In favor Motion carried

Russo – Yes, Acton – Yes, Smith – Yes, Personti – Yes, Tate - Yes

These minutes summarize the agenda items and other issues discussed at the May 28, 2024, 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



JOHN ACTON, SECRETARY