

**TOWN OF ELSMERE
BOARD OF ADJUSTMENT
MEETING MINUTES
October 28, 2025
6:30 P.M.**

PLEDGE OF ALLEGIANCE:

CALL TO ORDER:

ROLL CALL:

CHAIRMAN	JAMES PERSONTI	PRESENT
BOARD MEMBER	JOHN ACTON	PRESENT
BOARD MEMBER	JOHN SMITH	PRESENT
BOARD MEMBER	KYRAH TATE	PRESENT
BOARD MEMBER	ED ZIELINSKI	ABSENT

Town Manager, Steve Martin
Code Enforcement Officer, Nicole Facciolo – Present
Code Enforcement Officer, Mark Bowers – Present

PUBLIC COMMENT:

APPROVAL OF MINUTES:

Minutes from the September 23, 2025, Board of Adjustment Meeting

ACTION: Board Member Smith made a motion to approve the minutes from the September 23, 2025, Board of Adjustment meeting with no corrections. Board Member Acton seconded the motion.

VOTE: 4 in favor 1 Absent Motion carried

Acton – Yes, Smith – Yes, Personti – Yes, Tate – Yes, Zielinski – Absent

OLD BUSINESS: None

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

NEW BUSINESS:

- 1. Review Petition 26-04, Tax Parcel # 19-00500-389**

The applicant seeks to appeal Citation V2600141 issued by the Code Enforcement Department and waive the \$1,000.00 fine. The Board of Adjustment will review and render a decision regarding this petition.

The applicant, Miquel Luna, stated he is requesting leniency of the \$1,000.00 nuisance fee. Mr. Luna, the tenant of the property, stated he did not understand the rules of the township but does realize he has had three citations, but he has paid fines for those and does not understand why he has to pay a \$1,000.00 fine. He stated he does not have money to pay for the fee and needs help to pay it.

Board Member Acton mentioned to the applicant, you received a citation and then turned around and received another citation for the same thing more than on one citation. You should have understood the rule from the first citation.

Mr. Luna stated that before he moved into the Township, he had a New Castle County License and did not realize he needed one for the Township as well. He does not work in the Township, and he is not sure why he would need one for the Township. Also, in 2024 he was actively looking to move to another place since he was only renting here in Elsmere, and this is why he did not apply for a license, but he did apply once he got the second citation.

Board Member Tate asked where is the location of your business? Mr. Luna responded at 502 Baltimore but now that my business is growing I am going to have to move the location.

Board Member Tate asked if the applicant has corrected the issues and the response was yes.

Chairman Personti asked the applicant if all nine of the violations have been corrected and the response was yes.

Code Enforcement Officer Nicole Facciolo stated there have been multiple violations at this property in the 12-month period beginning in April 2025, until August 2025. She believes the Town followed the proper procedure for each. Therefore, the Town will maintain the requirements of Chapter 145 of the Code of the Town of Elsmere and the property falls under the Repeated Public Nuisance, in closing the Town has met its intent with the evidence provided and testimony given beyond reasonable doubt. A breakdown of citations is below:

4/24/25 Failure to Obtain a License – Nicole:

A complaint was filed with the Code Department for the property operating a landscaping business without a Town of Elsmere business license. A \$300 fine was issued. Fine was paid on 5/22/25.

4/24/25 Outdoor Furniture/Appliances – Nicole:

A complaint was filed with the Code Department for the property having various pieces of commercial lawncare equipment, ladders, power washers, etc. for the above unregistered business on both sides and in the rear yards of the residence. A \$100 fine was issued. Fine was paid on 5/22/25.

4/24/25 Exterior Surfaces – Nicole:

A complaint was filed with the Code Department for the property's siding being damaged on the left side of the residence due to the storage of all the lawn equipment. A \$100 fine was issued. Fine was paid on 5/22/25.

4/24/25 Garbage/Rubbish – Nicole:

A complaint was filed with the Code Department for overflowing commercial trash cans, plywood, and other miscellaneous garbage/rubbish in the side yard of the property. A \$100 fine was issued. Fine was paid on 5/22/25.

5/16/25 Parking Regulations for Trailers – Nicole:

A complaint was filed with the Code Department for a black commercial trailer parked on the public roadway usually after-hours. No fine was issued. Trailer began being stored in the driveway.

5/16/25 Failure to Obtain a License – Nicole:

A SECOND NOTICE violation was issued for the property operating a landscaping business without a Town of Elsmere business license. Fine was not issued – tenants came into Town Hall the same day to apply for a business license.

8/19/25 Parking Regulations for Trailers – Nicole:

While regularly patrolling, I observed the same black commercial trailer from 5/16 violation attached to a commercial truck that was parked on the public roadway in front of the residence. No fine was issued. Tenants called the same day the violation was issued to clarify that trailers may not be out on the street regardless of whether they are attached to a vehicle or not. The Code states that you must be actively loading or unloading a trailer in order for it to be out on the street.

8/19/25 Outdoor Furniture/Appliances – Nicole:

A SECOND NOTICE violation was issued for the property having commercial lawn care equipment in the side yard of the property after they were already told to store the

equipment in an enclosed shed or garage when they received the original violation on 4/24. No fine was issued.

8/19/25 Failure to Comply – Nicole:

This violation was issued for failure to comply with the previously issued notices of violation. No fine was issued.

9/3/25 Repeat Public Nuisance – Nicole:

This property received repeat public nuisance violation for receiving 3 or more violations within a 12-month period. The property received a total of 9 citations but because some of them were issued on the same day, the property is only considered to have 3 citations within the 12-month period.

Town Manager Steve Martin made a statement that he is concerned that the issues have repeated themselves already and will it happen again. The Town has codes, and we would like to keep the integrity and cleanliness of the town intact.

Board Member Tate asked several questions about the tenant appealing the fine versus the landlord's responsibility. She stated if the landlord were present the Town would be addressing the landlord instead of the tenant.

Code Enforcement Officer Facciolo stated the landlord ultimately is responsible for any violation on the property, but the tenant is choosing to pay for the fines and appealing the nuisance fee. She quoted the Board of Adjustment appeal paperwork that states "Any person directly affected by a decision of the Code Enforcement Official or a notice or order issued by this code shall have the right to appeal to the Board of Adjustment of the Town of Elsmere". Therefore the tenant has the right to appeal. If the landlord pays the fee and bills the cost back to the tenant, that is between them not the Town. This tenant has paid any fees created thus far or corrected the violation.

Eli Sanchez-Bonet, 506 Baltimore Avenue, stated he is a former Code Officer with the County and is very familiar with what he can and cannot do, based on the County rules. He stated that running a business out of a residential area as long as the business is not visible to the surrounding houses, most of the time the homeowners do not care. He stated there is plenty of evidence that he brings junk and debris in the truck and the community does not want to see that and usually always happens on the weekend.

Multiple conversations were had about the allowance from the Town about business being run in residential areas.

ACTION: Board Member Smith made a motion to deny the request to waive the \$1,000.00 nuisance fee for Petition 26-04. Board Member Acton seconded the motion.

Board of Adjustment

October 28, 2025

Page 4 of 5

VOTE: 4 in favor 1 Absent Motion carried

Acton – Yes, Smith – Yes, Personti – Yes, Tate – Yes, Zielinski – Absent

ITEMS SUBMITTED BY CHAIRMAN AND BOARD MEMBERS: None

PUBLIC COMMENT: None

ADJOURNMENT:

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

VOTE: 4 in favor 1 Absent Motion carried

Acton – Yes, Smith – Yes, Personti – Yes, Tate – Yes, Zielinski – Absent

These minutes summarize the agenda items and other issues discussed at the October 28, 2025, 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