

1. Review of Petition 26-08, Tax Parcel Number 1900-400-098

The applicant seeks to appeal citation V2600464 issued by the Code Enforcement Department and waive the \$500.00 dumping fine. The Board of Adjustment will review and render a decision regarding this petition.

Chairman James Personti swore in anyone wishing to testify.

Kyle Walker, 29 Beech Avenue, stated he seeks to have the illegal dumping citation waived. He testified that he had placed a cardboard box in a nearby dumpster rather than leaving it on the street. He argued that the citation paperwork provided a 48-hour window to take corrective action to have a fine waived, provided the individual had no prior violations in the last 12 months. Mr. Walker also stated that the violation occurred on January 2, 2026, and that he had removed the item and provided photographic proof of the cleared site to Code Enforcement the following day. He presented these photos to the Board, showing the area was clear on the same day the citation was issued.

Town Manager Steven Martin asked what the citation says.

Mr. Walker stated the Citation says if you have not received any citation 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 Code Enforcement Office within 48 hours of the violation date. On the form where I did the appeal, which has the date that I did that, and I have the photo dated the second date that I got the citation.

Code Enforcement Officer Mark Bowers presented the Town's position, stating the Town of Elsmere followed the procedures of Code Chapter 127-4 and the Town Ordinance 675 for illegal dumping. While he was on patrol on January 02, 2026, near 116 Forest Avenue there was a cardboard box laying there. The box was identified as belonging to the residents at 29 Beech Avenue (Kyle Walker). At this point, a fine and citation was issued. Code Enforcement staff reported that the resident initially claimed his friend at the Maple Walk Apartments gave him permission to use their dumpster. However, staff noted that this still constituted illegal dumping. When staff attempted to verify the friend's address, the resident provided a non-existent apartment number and subsequently ended the phone call. The Town maintained that the fine should be upheld under Ordinance 675 and Chapter 127-4 of the Town Code, which mandates immediate fines for dumping.

There were multiple discussions amongst the Board Members and the decision was: the Board discussed the ambiguity of the citation paperwork. Members noted that while the Town Ordinance intended for dumping fines to be "immediate" (with no grace period),

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February 24, 2026

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

ITEMS SUBMITTED BY CHAIRMAN AND BOARD MEMBERS: None

PUBLIC COMMENT: None

ADJOURNMENT:

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

VOTE: 3 in favor 2 absent Motion carried

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

These minutes summarize the agenda items and other issues discussed at the February 24, 2026, 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